The Incorporated Accountants' Journal

The Official Organ of
The Society of Incorporated Accountants and Auditors

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Letters for the Editors to be forwarded to them, care of the Secretary, as above. Correspondence, copies of reports and accounts, &c., will be welcomed from the profession.

Vol. XLVI SEPTEMBER, 1935 No. 12

Contents.

Professional Notes.

IT will by now be known to many of our readers that Sir James Martin passed away on August 21st. His passing is probably too near for us to appreciate fully the greatness of his character and the significance of his unique contribution to the profession which he adorned. To those who came into close contact with him there was an ever growing appreciation of his worth and work.

There can be no question but that our late friend and adviser was a great gift to the Society. In whatever capacity he was called upon to represent our interests we knew that his rare personality, his unrivalled professional knowledge and his unvarying courtesy gave us an ambassador of which any organisation might well be proud. His heart was wedded to the Society, and in whatever company he was to be found he reflected credit upon the body of which he had been so long the chief executive officer, and of which he subsequently had the unparalleled honour of being twice elected President. The difficulty experienced in persuading him to accept nomination to the Presidency in 1922 was only one among many indications of that spirit of modesty in which he walked through life.

We have lost a wise leader, but are thankful that his influence will not be absent from our future deliberations, for, of a truth, the dead rule the living. Every member of the Society is his debtor, and we shall best pay our debt by remembering the emphasis he ever placed upon the words of Lord Justice Warrington in the most famous case of the Society's history, when his Lordship found that membership of the Society was synonymous with reliability and integrity.

The Annual Report of the Board of Trade on the Companies Acts for the year ended December 31st, 1934, shows that the total number of companies registered in England and Scotland during the year was 13,066, being an increase of 1,130 over 1933. The total nominal capital of these companies also showed an increase, being £148,029,517 as against £98,954,522 in the preceding year. As usual the registrations were largely private companies, the number of these being 12,599 with an average nominal capital of £6,187. The number of public companies was 354 with an average share capital of £197,947, and there were 113 companies registered without share capital.

The number of companies on the registers in Great Britain on December 31st, 1934, was 135,589 in England and 10,060 in Scotland. These figures include 10,875 companies in England and 1,446 in Scotland which were in course of

liquidation or removal from the register. Of the remaining companies on the registers at the end of the year 17,719 were public companies and 115,609 were private companies.

In only one case was the power of the Board of Trade exercised to appoint an auditor as the result of an appointment of auditors not being made at the annual general meeting of the company. In three cases an inspector was appointed under the provisions of sect. 135 of the Companies Act, 1929, seven other applications for such appointments being either refused or not proceeded with.

The records with regard to winding-up proceedings show that in England 2,570 voluntary liquidations, 337 compulsory liquidations and two voluntary liquidations under the supervision of the Court were begun during the year. In Scotland the corresponding numbers were 172, 16 and 1. Of the compulsory liquidations in England 281 were in the High Court, 49 in the County Courts, and 7 in the Palatine Courts.

The provisions of the Limited Partnerships Act continue to attract very little attention, the number of registrations in England during the last three years being 24 in 1932, 20 in 1933 and 25 in 1934. In Scotland there was none at all in the last two years.

In claiming Housekeeper Allowance for Income Tax purposes, a distinction is made between the case of a female relative of the claimant and any other female person who may be so acting. In the first case it is not necessary to show a contract of employment, but in the other it is. This was decided by Mr. Justice Finlay, in the case of *Mrs. McFarlane* v. *Hubert* (*Inspector of Taxes*). The distinction arises from the wording of sect. 19 of the Finance Act, 1920, as amended by sect. 22 of the 1924 Act, and depends upon the use of the word "employed" in relation to a person other than a relative.

In giving judgment, his Lordship said there was a contrast between the case of the female relative and the case of the other female person. The legislature had said quite definitely that in order to get exemption or relief it was necessary to "employ" the other female person, and as that was a question of fact, and in the case under notice the Commissioners had found as a fact that there was no contract of employment, the claim for allowance could not be upheld. He further added that the finding of the Commissioners seemed to him to represent the obvious common sense of the matter, and to put it at the lowest there was enough evidence upon which the Commissioners could arrive at that finding.

It is reported that a regulation has been issued by the Commissioner for German Credit Institutions whereby all security holdings of banks, both private and public, including Savings Banks and all other credit institutions, must be audited once a year. Each group of the different types of banks will be allowed to appoint its own auditor, but in special cases banks will be permitted to appeal for the appointment of another auditor.

The Fifth International Congress of Building Societies is to be held in Salzburg and Vienna, and will occupy the whole of the week commencing September 2nd. Sir Harold Bellman will deliver the Presidential Address at the opening of the proceedings, and will deal with "World-wide Aspects of Building Societies." Mr. T. R. Chandler will read the official paper, "Building Societies in Great Britain," and Sir Josiah Stamp will speak on "The Common Factors of National Life." It is expected that some 200 delegates from British Building Societies will attend the Congress.

The *Financial Times*, in a leading article, calls attention to what it terms a somewhat startling phenomenon in relation to investments in gilt edged securities and the effect thereon of income tax and surtax, the result of which is that in some cases an investor who is liable to the full rates of income tax and surtax might have an income of only a nominal rate, and in some cases less than nil. The 3½ per cent. War Loan is taken as an example. Assuming £100 of War Loan is bought at 108, the gross income in 17 years (when it is liable to be redeemed) is £59 10s. Income tax and surtax at a total of 12s. 9d. in the £ leaves a net income for the 17 years of £21 11s. 4d. This is reduced by the capital loss of £8 on redemption to £13 11s. 4d., an average of 15s. 11d. per annum, and an annual yield of 14s. 9d. per £100 of money invested. Compound interest is ignored, and the calculation is made on the assumption that the present rates of income tax and surtax will continue.

A more extreme case is that of the 5 per cent. Conversion Loan, 1944-64, which worked out in the same way would show an actual loss by reason of the premium of £21, at which it now stands, being more than the total net income for the nine years to date of redemption in 1944. There are,

of course, very few investors who are liable to the full rate of income tax and surtax, but with even moderate incomes the result of investing in stocks liable to redemption and standing at a high premium, the rate of net income derivable may easily prove to be very small.

The Index Number of profits prepared by Sir Josiah Stamp, and brought up to date year by year, has now been issued with the year 1934 included. It is divided into two parts, a general Index Number indicating changes in the return received by industrial capital as a whole since 1920, and a special Index Number, which is more sensitive, showing the changes in the return for risk-bearing capital (*i.e.*, Ordinary Shares, &c.). The figures given refer expressly to changes in the aggregate amount of profits, and not to the rate of return per unit of capital which, in view of the large increase in investment capital in recent years, would show a much greater fall than that indicated by the Index. It will be seen that the Index is pivoted upon the year 1924, and worked back to 1920 and forward to 1934. The latest figures are as follows :—

	General Index.	Special Index.
1920	107.0	112.0
1921	68.7	57.3
1922	90.4	84.5
1923	94.1	90.6
1924	100.0	100.0
1925	104.1	109.3
1926	98.3	103.0
1927	106.5	111.4
1928	106.2	110.7
1929	106.8	114.3
1930	92.8	94.4
1931	77.4	74.3
1932	74.8 *	71.4
1933	84†	82.6
1934	98†	98.8 *

* Provisional, subject to early verification.
† Very provisional.

A question arose before Mr. Justice Singleton at the Manchester Assizes as to the meaning of "Fully Subscribed Capital." A Cotton Mill Company in Lancashire had issued an advertisement inviting loans to the company, and stating that the capital of the mill was £100,000 fully subscribed. It was alleged that this was a false representation because on each of the £5 shares only 7s. 6d. had been paid, and the plaintiff in the action claimed the return of £300 advanced by himself and his wife. The defence was that the whole of the capital was in fact subscribed, but only a small part (as was usual in the case of other cotton mills) had been paid up. The term "subscribed" meant that the shares had been taken up by persons who had become liable to such calls as might be made upon the shares. His Lordship said he could not see that there was any such misrepresentation as would give a right of action, and if there had been any misrepresentation it must have been well known to the plaintiff as long ago as the year 1928, and the remedy for that was barred by the Statute of Limitations.

The annual report of the Chief Registrar of Friendly Societies is issued in five parts—a General Report and four Sectional Reports. All these reports deal with the work of the Chief Registrar's office during the year 1934, but the details given as to the operations of the Societies relate to the year 1933. The General report shows that the number of societies and branches employing auditors during that year was 7,547. These were audited by 1,109 auditors, so that each auditor on an average conducted about seven audits. The remuneration of the auditors averages £114 each, equal to something less than £17 an audit.

The number of applications during the year for appointment as Public Auditors was 204, of which 83 were recommended for appointment or their names were noted for consideration when suitable vacancies should arise. The remainder either had not the necessary qualifications or the applications, for other reasons, were not proceeded with.

The part of the Report relating to Trade Unions shows that there were 458 Unions of Employees and 89 Associations of Employers on the register at the end of 1933. The membership of the Unions of Employees fell by 59,000 during the year, the total at the end of the year being 3,347,000. The income from members showed a reduction of £148,000, and there was a drop of £1,338,000 in the income from the Ministry of Labour as a result of a decrease in the amount of State Unemployment Benefit disbursed by the Unions. There was likewise a reduction of £615,000 in the amount of unemployment benefit paid out of the Unions' own funds.

Commenting on the annual returns of the Unions, the Inspector points out that although Trade Unions are not required by law to have their accounts audited by qualified accountants, most of the larger Unions voluntarily do so, but the professional audit is usually confined to the accounts of the head office, whilst the branch

accounts are audited by lay auditors. In this respect there are exceptions in the case of one or two of the large Unions. A number of cases of defalcations at branches involving substantial amounts has induced the Inspector to call attention to the advisability of extending the professional audit to branch accounts in all cases.

BANKRUPTCY PETITION AFTER DEED OF ARRANGEMENT.

INSOLVENT persons in order to avoid bankruptcy often endeavour to make private arrangements with their creditors. This is done by the debtor executing an assignment of his assets to a trustee for the benefit of his creditors generally. The requirements of the Deeds of Arrangement Act, 1914, must, however, be complied with, in particular sect. 2 and sect. 3 (1) and (3).

By sect. 2 a deed of arrangement will be void unless it is registered with the Registrar of Bills of Sale within seven clear days after its first execution by the debtor or any creditor, or if executed in any place out of England within seven clear days after the time at which it would, in the ordinary course of post, arrive in England, if posted within one week after its execution, and unless it bears such ordinary and *ad valorem* stamp as is provided by the Act.

By sect. 3 (1) a deed of arrangement, which either is expressed to be or is in fact for the benefit of the creditors generally, will be void unless, before or within twenty-one days after its registration, or within such extended time as the Court may allow, it has received the assent of a majority in number and value of the creditors of the debtor. By sub-sect. (3) the assent of a creditor for the purposes of sub-sect. (1) will be established by his executing the deed of arrangement or sending to the trustee his assent in writing attested by a witness, but not otherwise.

But even where there has been no formal assent under sect. 3 (3) a creditor may by his conduct be deemed to have assented. In *Re Brindley* (1906) it was held that an act of bankruptcy committed by a debtor by the execution of an assignment for the benefit of his creditors cannot be made the basis of a bankruptcy petition by a non-assenting creditor, if that creditor has done any act or acts amounting to an acquiescence in the deed or to a recognition of the trustee's title therein, as, for example, by supplying goods to and receiving payment therefor from the trustee as such, or by endeavouring to take advantage of a clause in the deed empowering the trustee of the deed in his own discretion or at the direction of the committee of inspection to "pay in full, or otherwise than by dividends under these presents, any creditor or creditors who shall decline to execute or assent to these presents." In *Re Hawley* (1897) it was held that petitioning creditors who had acquiesced in a deed of arrangement were not entitled to fall back on the act of bankruptcy committed by the notice of intention to suspend payment which was involved in the notice convening a meeting of creditors at which a deed was decided upon.

Formal assent of a creditor takes away his ordinary rights against the debtor and substitutes new rights under the deed. But where an assent is implied by acquiescence the principle of *Re Mills* (1906) applies, namely, that a creditor, who has so acted with reference to an assignment for the benefit of creditors executed by his debtor that he cannot be allowed to found a bankruptcy petition against the debtor on the deed as an act of bankruptcy, is yet, if he is not bound by the deed, entitled to present a bankruptcy petition against the debtor founded on an independent act of bankruptcy; and this is so even if the result may be that the deed will be avoided as against the trustee in the debtor's bankruptcy.

In *Re Sunderland* (1911) it was said that a creditor who knows that his debtor is in difficulties is none the less entitled to bring his action, obtain judgment, issue execution, and enjoy the fruits of it (unless he be intercepted by bankruptcy proceedings), and none the less because the result may be that he will obtain payment in full and other creditors will not. That is his legal right. The Court saw in it nothing in any way improper. Similarly, a creditor who has threatened his debtor with consequences if he does not pay his debt and threatens or takes any legitimate steps for enforcing payment, is none the less entitled, if his demands are not satisfied, to proceed in bankruptcy. On the other hand, the Court will not allow the bankruptcy jurisdiction to be invoked for purposes of fraud or extortion. To use or even attempt to use bankruptcy proceedings for the purposes of fraud or extortion, although the attempt may fail, is a sufficient cause for refusing to make a receiving order on the petition of that creditor. A debt which has been used as a means of extortion cannot afterwards be made use of as a means of getting a receiving order. It is not, however, extortion to demand payment of what is due and to enforce by legitimate means payment of what is due. Neither is it extortion to make openly a claim which cannot be supported in law and to decline to assent to a deed of assignment when the claim is not admitted.

FORMER EMPLOYEE SOLICITING CUSTOM.

WHEN an employee enters into new employment his rights and duties as regards his former employer chiefly depend upon the principles governing contracts in restraint of trade. The test of what should be a permissible restraint of trade is what is reasonable in all the circumstances of the case, having regard to the interests of the public as well as to those of the parties to the contract. Consideration is one of the tests of what is reasonable; and contracts in restraint of trade, though under seal, require consideration to support them. Whether the restraint in any particular case is reasonable or not depends upon the facts of the case, but is treated as a question of law for the Court and not for the jury to decide.

In contracts of employment, it would not be reasonable to impose the same restrictions upon the employee, after the termination of the employment, as a purchaser of the goodwill of a business would be entitled to impose upon the vendor. The employee can, of course, contract not to divulge or make improper use of his former employer's trade secrets, or to solicit his customers, but the employee cannot be restrained from using his own skill and knowledge in his trade or profession, even if acquired when in the employer's service. In other words, the right of the employer to protect his trade secrets and prevent his old customers from being enticed away from him, does not include protection against competition by the employee. Moreover, where an employer has no trade secrets which a servant is in a position to use in a similar business and there is no danger of solicitation, a covenant in restraint of trade will not be enforced against the servant. The validity of such a covenant depends upon the question whether it was not more than was reasonably required for the protection of the employer, and unless there are circumstances showing some reasonable ground for imposing a restriction on a person's liberty to do what he can for his own support, that restriction will be held not binding upon him. But if a restraint is otherwise reasonable, the mere fact of there being no limitation as to time, *e.g.* never to engage in a certain profession within a radius of seven miles from a given place, does not render the restraint unreasonable. In cases of employment, the limits of reasonable restraints are much narrower than in cases of sale of goodwill. The Courts will view restraints of trade which are imposed between equal contracting parties for the purpose of avoiding undue competition and carrying on trade without excessive fluctuations and uncertainties with more favour than they will regard contracts between master and servant in unequal positions of bargaining. In other words, there is much greater room for allowing as buyer and seller a larger scope for freedom of contract and a correspondingly large restraint in freedom of trade than there is for allowing a restraint of the opportunity for labour in a contract between master and servant or an employer and an applicant for work. Moreover, even where a restraint is not more than is reasonably necessary for the protection of the employer, it will not be enforced if it is oppressive to the employee; it must be reasonable in the interests of both.

Any restraint of trade is, of course, to some extent a restraint against competition and, moreover, a restraint against competition may be the only practicable method of securing a valid object such as the protection of trade secrets or customers; but there must be something more than mere restraint against competition; there must be protection of some proprietary right in existence during the employment. Thus a restraint against soliciting customers of the employer who became his customers after the termination of the employment, was held to be invalid in *East Essex Farmers* v. *Holder* (1926).

In *Robb* v. *Green* (1895) the defendant, being employed by the plaintiff as manager of his business, surreptitiously copied from his master's order book a list of the names and addresses of the customers, with the intention of using it for the purpose of soliciting orders from them after he had left the plaintiff's service and set up a similar business on his own account. Subsequently, his service with the plaintiff having terminated, he did so use the list. It was held that it was an implied term of the contract of service that the defendant would observe good faith towards his master during the existence of the confidential relation between them, and that the defendant's conduct was a breach of that contract in respect of which the plaintiff was entitled to damages and an injunction.

In *Leng* v. *Andrews* (1909), a young journalist entered the service of a newspaper as junior reporter, at a salary of £2 per week, in a town where a rival journal was established. On entering the service he signed an agreement which contained a clause that he would not, after leaving the service, be connected with any other newspaper within a radius of twenty miles. It was held that the agreement was unreasonable and therefore invalid. The journalist was, moreover, an infant, and it was held that a contract of this kind with an infant was good only if it was for

his benefit, and the onus was on the plaintiffs to show this; and they must show, too, that the contract was not merely one under which the defendant was to improve himself and get a salary, but that it was a contract which contained only clauses and provisions which were usual and necessary in contracts of that nature—which was found, as a fact, not to be the case in this instance. In *Wessex Dairies* v. *Smith* (1935) it was held that a servant who, while still in the service of his master, solicits the customers of his master to transfer their custom to himself, even though that transfer is to take effect only after the service has terminated, commits a breach of his duty to his master, and for that breach he is liable in damages. In this case the Court expressly disapproved of *Nichol* v. *Martyn* (1799), where it was held that a servant while in his master's service may solicit business from his customers for himself when his service is at an end and he sets up on his own account.

When an accountant's clerk enters into new employment, his right to solicit custom from the clients of his former employer depends upon the particular circumstances of each case. It appears to be a breach of duty to solicit custom for a particular employer whilst engaged in the service of his actual employer. But when he has left the service of his employer the legality of soliciting custom from the clients of his former employer largely depends upon the principles enunciated in *Robb* v. *Green*, *Leng* v. *Andrews*, and *East Essex Farmers* v. *Holder*, governed by the fundamental consideration that even though a contract in restraint of trade may be reasonable as between the parties and therefore apparently binding, it will none the less be void if injurious to the public.

In *Helmore* v. *Smith* (1886), after the Court had made an order appointing a receiver and manager of a business, a former clerk of the firm sent round a circular to the customers of the firm containing an unfair statement of the effect of the order, and soliciting their custom for his own business. As he declined to give an undertaking not to repeat the offence, he was committed to prison for contempt of Court.

Incorporated Accountants' Examinations.

The next Examination of Candidates for admission to the Society of Incorporated Accountants and Auditors will be held on November 4th, 5th, 6th and 7th, 1935, in London, Manchester, Cardiff, Leeds, Glasgow, Dublin, Belfast, Cape Town, Johannesburg and Durban.

The last date for receiving applications is Tuesday, October 1st, 1935. Late applications cannot be dealt with.

Particulars and forms are obtainable at the Office of the Society, Incorporated Accountants' Hall, Victoria Embankment, London, W.C.2.

THE PUBLIC TRUSTEE'S REPORT.

The following is the report of the Public Trustee for the past year :—

I have the honour to submit the Twenty-seventh General Report covering the twelve months ending March 31st, 1935, on the Office of the Public Trustee.

1. The surplus for the year amounted to £27,106, as compared with £30,778 for last year, the difference of £3,672 being accounted for by increases in salaries, wages and allowances, in the cost of maintenance, and of audit by the Exchequer and Audit Department, in the reserve for pensions and in the amount of losses through breach of trust amounting in all to £9,908, set off in part by an increase of £6,236 in the total receipts.

2. The staff at March 31st, 1935, numbered 824, as compared with 813 on the corresponding date in the previous year, an increase of 11, of which 4 were men and 7 women.

3. The number of new cases accepted during the year was 1,003, as compared with 994 last year. The total aggregate value of new business, including accretions to existing trusts, was £14,043,579 as compared with £14,833,329 for last year.

4. The average value of trusteeships and executorships during the year was £10,778 and £16,718 respectively, as compared with last year's figures of £12,324 and £18,966.

5. Once more, of the cases accepted during the year, approximately 60 per cent. were under £5,000 in value.

6. The total number of cases accepted since the institution of the Office in 1908 to March 31st, 1935, is 32,185, of which 13,414 have been completely distributed, leaving 18,771 under administration, an increase of 190 since last year.

7. The nominal capital value of the funds now under administration is £213,564,154, in addition to landed property and settled land, estimated at £52,000,000, and cash at banks of approximately £2,500,000. Last year's figures were approximately £215,000,000 in respect of funds and £50,000,000 in respect of landed property and settled land.

8. Two losses occurred during the year—one of £14 8s. 11d. on account of the re-purchase of an investment sold in error, and the second of £1,046 12s. 4d., being loss on sale of an investment made in 1912 which was unauthorised under the terms of the Settlement.

9. A small amendment has been made in Table V. In previous years an estimate has been made of the value of stocks in course of transfer in accepted cases before ascertainment and valuation. To this estimated value was added the amount of cash in hand on account of trusts, and the total was included as an item in the Table described as "Unclassified stocks in course of transfer in accepted cases (approximate nominal value) and cash." The item has been omitted as inappropriate to a Table which purports to show the ascertained nominal value of the total stocks held, and a note giving the approximate amount of cash held at banks has been added to the existing note, which relates to settled and other land.

10. There has been an increase of 17 in the number of cases accepted and of 86 in the number of cases under administration by the Manchester Branch.

11. I have to thank the Honorary Investment Advisory Committee (Sir Robert Kindersley, G.B.E., Sir John Mullens, Mr. R. M. Holland Martin, C.B., Mr. H. A. Trotter, and Mr. E. L. Gosling) for their help throughout the year.

Obituary.

SIR JAMES MARTIN.

It is with deep regret that we record the death, in his 74th year, of Sir James Martin, which took place on August 21st at Llandrindod Wells, where he was on holiday. He had been suffering for about ten days with congestion of the lungs. Although not endowed with a robust constitution, he normally enjoyed good health. With his passing the accountancy profession loses an outstanding figure.

Sir James was educated at Christ's Hospital, a school for which he had an affectionate regard and in which he never ceased to take an active interest. In the year 1877 he entered accountancy, and in 1882 in conjunction with the late Mr. A. R. King Farlow (who died only six weeks before him) he founded the firm of Martin, Farlow & Co., and continued in practice for 49 years, retiring in 1931. He was a member of the Committee which founded the Society of Incorporated Accountants and Auditors in 1885, and from 1886 until 1919 he held the position of Secretary of the Society and was largely instrumental in guiding its policy. Possessed of great ability, sound judgment and a broad outlook, he was a tower of strength to the Society, and when he retired from the secretarial office he was appointed Adviser to the Council. Intrusted with special authority from the Council, he visited South Africa in 1894 and founded the South African Committee of the Society. He was thus instrumental in laying the foundations of the whole organisation of the profession in South Africa. For his great services to the accountancy profession, the Honorary Membership of the Society was conferred upon him in the year 1907. In 1919 he received a Knighthood and the following year the M.B.E. In 1922 Sir James was unanimously appointed President of the Society, an office to which he was again called on the occasion of the Society's Jubilee celebrations in the present year. He was also appointed Vice-President of the Fourth International Congress of Accountants, held in London two years ago. In the Incorporated Accountants Benevolent Fund he took a deep interest and was President of the Fund for the last thirteen years.

Although Sir James always regarded his activities in connection with the Society of Incorporated Accountants as the chief work of his life, he also rendered much public service of a varied character. He was a member of the Companies Acts Committee in 1918, the Bankruptcy Acts Committee in 1924, the Committee on the Amendment of the Companies Acts in 1925, and the Committee on the Amendment of the Law of Arbitration in 1926, in addition to which he was a witness on various Commissions and Parliamentary Committees on taxation and other matters. At the time of his death he was acting as one of the Commissioners constituting the London Passenger Transport Arbitration Tribunal. He was also President of the London Chamber of Commerce in 1925-1928, and since 1928 Vice-President of the Association of British Chambers of Commerce, having previously been Deputy President and Chairman of the Finance and Taxation Committee.

On his retirement from the firm of Martin, Farlow and Co. he became more active in commercial affairs, and held the position of Chairman of several well known companies, including Allied Suppliers, Ltd., Maypole Dairy Co., Ltd., Lipton, Ltd., and the Ely and Kings Lynn Beet Sugar Factories, and was Government Financial Representative on Home Grown Sugar, Ltd. He was likewise a member of the Council of Foreign Bondholders and of the London Board of the Scottish Union and National Insurance Company. Sir James Martin was possessed of great personal charm and was one of the best known men in the City of London, where he was regarded not only with esteem but with affection.

He is survived by Lady Martin and two daughters.

FUNERAL SERVICE.

The funeral service was held at St. Mary Abbots, Kensington, on Monday, August 26th, at which there was a large attendance. The family mourners were Lady Martin, Major and Mrs. Kavanagh, Captain and Mrs. Leigh, Mr. and Mrs. W. Bird, Mrs. Firminger, Miss Eileen Firminger, Miss Elizabeth Sellers, Mr. Frederic L. Perken, and Mr. E. T. Perken.

Others present included :—

Sir Stephen Killik, F.S.A.A. (Lord Mayor of London), Viscount Feilding, Lord Herbert Scott, Sir Evan Spicer, Sir Stephen Demetriadi (President, London Chamber of Commerce), Sir Felix Pole, Sir Murray and Lady Hyslop, Mr. R. B. Dunwoody (Secretary, Association of British Chambers of Commerce), Mr. M. G. Kendall (Ministry of Agriculture and Fisheries), Mr. J. Scholefield, K.C. (President, London Passenger Transport Arbitration Tribunal), Mr. A. de V. Leigh (Secretary, London Chamber of Commerce), Mr. H. R. Greenhalgh (Vice Chairman, Lever Bros. Limited), Mr. Walter J. Searls (Secretary, St. Mary's Lodge), Mr. G. A. T. Allan (Clerk of Christ's Hospital), Mr. Alan S. MacIver (representing the Institute of Chartered Accountants), Sir Alan Rae Smith (representing Lord Plender), Mr. R. A. Jenks (representing Sir Maurice Jenks).

Representatives of the Council of the Society of Incorporated Accountants and Auditors : Mr. R. Wilson Bartlett (President), Mr. C. Hewetson Nelson, Mr. Henry Morgan, Mr. E. Cassleton Elliott, Mr. R. T. Warwick, Mr. W. Paynter, Mr. A. Stuart Allen, Mr. A. A. Garrett (Secretary), and Mr. Ernest E. Edwards (Parliamentary Secretary). Mr. Walter Holman (Vice President), Mr. E. W. C. Whittaker and Mr. R. A. Witty were also represented.

Mr. E. S. Goulding (President, Liverpool District Society of Incorporated Accountants), Mr. Robert Bell (President, Belfast District Society), Mr. W. A. Nixon (President, Manchester District Society), Mr. G. Roby Pridie (Vice President, Incorporated Accountants' Students' Society of London).

Members of the firm of Martin, Farlow & Co. : Mr. W. Strachan, Mr. Percy C. Miall, Mr. W. G. Strachan, Mr. A. Roland King Farlow, and Mr. L. R. Treen ; and several of their staff, including Mr. S. W. Oakley and Mr. H. Vinall.

Mrs. Arthur King Farlow, Mr. Alex. Hannah, F.S.A.A., Mr. G. E. Pike, F.S.A.A., Mr. Walter P. Norton, Mr. A. Thornley, Mr. F. Whittingham, Mr. W. A. Ward-Jones, Mr. J. P. Van Rossum, Dr. A. Wijnberg, Mr. J. R. W. Alexander, Mr. Sydney Pascall, Mr. G. A. Mower, Mr. F. W. Parsons, Mr. and Mrs. A. Purvis, Mr. P. Rykens, Col. A. P. Drayson, Mrs. Valentine Knapp, Mr. P. D. Pascho, F.S.A.A., Mr. A. H. Stevens, F.S.A.A., Mr. C. W. Legge, F.S.A.A., Mr. A. V. Huson, A.S.A.A., Mr. Paul Davie, Mr. T. W. Dresser, F.S.A.A., Mr. G. D. Kemp-Welch, Mr. and Mrs. R. H. S. Woodgate, Mr. R. H. Bond, Mrs. H. C. Smart, Mr. Alexander Greig, Mr. Hedley Miller, Mr. T. W. Slater, Mr. Robertson F. Gibb, Mr. H. M. Nicholson, Mr. D. Mahony, F.S.A.A., Mr. J. Hetherington, Mr. P. R. Forrest Groves, F.S.A.A., Mr. F. Newling Jones (Editor *Surrey Comet*), Mr. Ernest E. Spicer, F.C.A., Mr. W. Saunders, F.S.A.A., Mr. F. W. Parsons, Mr. J. King Farlow, A.S.A.A., Mr. Hugh Quennell, Mr. John James, F.S.A.A., Mr. Edwin Wilson, A.S.A.A., Mr. Douglas Mackeurtan, F.S.A.A., Mr. C. Bush, Mr. H. A.

Oldacre, F.C.A., Mr. G. R. Collingridge, Mr. G. G. Kirkpatrick, Mr. R. S. Fraser, Mr. H. C. King, F.S.A.A., Mr. P. Hamilton Hughes, Mr. Edward Wilshaw, Mr. and Mrs. F. Capper, Mr. S. H. Roberts, F.S.A.A., Mr. H. R. Frost, F.S.A.A., Mr. H. J. Sleigh and Mr. A. W. Freeman.

CHARLES GEORGE CLARK.

We record with regret that Mr. Charles G. Clark, F.S.A.A., 12, Coleman Street, London, died on August 1st at the age of 56. Mr. Clark was admitted an Associate of the Society of Incorporated Accountants in 1912 and commenced public practice in the same year, becoming a Fellow in 1918. He was highly respected in City circles, and his death will be deeply regretted by many friends. He was a generous subscriber to numerous charitable and benevolent institutions, including the Benevolent Fund of the Society.

Society of Incorporated Accountants and Auditors.

MEMBERSHIP.

The following additions to and promotions in the Membership of the Society have been completed since our last issue :—

ASSOCIATES TO FELLOWS.

BULL, GEORGE WILLIAM (Harry Day & Co.), 51, Foregate Street, Worcester, Practising Accountant.

THORNLEY, JAMES CYRIL (Stephenson, Smart & Co.), Central Chambers, 1, Norfolk Street, King's Lynn, Practising Accountant.

ASSOCIATES.

AITKEN, WILLIAM EDWARD, with Spicer & Pegler, 19, Fenchurch Street, London, E.C.3.

AMBROSE, LLOYD WILLIAM, with Spain Brothers & Co., 45, London Wall, London, E.C.2.

BAILEY, LIONEL STEPHEN, with Critchley & Co., 12, Stert Street, Abingdon, Berks.

BASU, SISIR KUMAR, B.A., formerly with Ford, Rhodes, Thornton & Co., Tower House, Chowringhee Square, Calcutta.

BATES, JOHN GORDON, with Begbie, Robinson, Cox and Knight, 3, Raymond Buildings, Gray's Inn, London, W.C.1.

BRABIN, JOSEPH, with Harper, Pilling & Co., 25, Acresfield, Bolton.

CHILDS, DUDLEY, Borough Treasurer and Comptroller's Department, Municipal Chambers, Newport, Mon.

CHILLINGWORTH, ROBERT GEORGE, with Veitch & Co., 9, Coleman Street, London, E.C.2.

CHILTON, JOHN EDWARD (Clarke, Dovey & Co.,) 31, Queen Street, Cardiff, Practising Accountant.

CLARK, JAMES BORTHWICK, with James C. Cessford, 23, Albany Street, Edinburgh.

CLARKE, JOHN EDWARD KENYON, with Viney, Price and Goodyear, Empire House, St. Martin's-le-Grand, London, E.C.1.

COHN, JULIUS ERIC,with H. F. White, Guildford Chambers, 1, Butts Court, Leeds, 1.

CRASNER, LOUIS, with Hicks, Walters & Co., 15, George Street, Mansion House, London, E.C.4.

DIMOND, FREDERICK WILLIAM, with Bishop, Fleming and Co., Strand Chambers, Torquay.

DOUGAN, JOHN ROBERT LESLIE, with J. Howard Wilson and Co., Castle Street, Londonderry.

DRISCOLL, WILFRED JAMES, with Whinney, Smith and Whinney, 4B, Frederick's Place, Old Jewry, London, E.C.2.

ESSEX, EWART GEORGE, A.C.A. (Clinch, Legge & Co.), 52, Bedford Row, London, W.C.1, Practising Accountant.

FOGGO, EDWARD GEORGE, with F. W. Stephens & Co., Liverpool House, 15-17, Eldon Street, London, E.C.2.

GONDALIA, GORDHANDAS HIRJI, B.Com., formerly with Dalal & Shah, 49, Apollo Street, Fort, Bombay.

GOOLD, ERNEST GEORGE, with Sharp, Parsons & Co., Suffolk House, 5, Laurence Pountney Hill, Cannon Street, London, E.C.4.

GRAY, OWEN WALTER, with Gane, Jackson, Jefferys and Freeman, 66, Coleman Street, London, E.C.2.

HACKETT, PERCY ROLAND, JUNR., A.C.A. (Hackett and Oliver), 36, Cannon Street, Birmingham, Practising Accountant.

HAY, ROBERT HERBERT, City Treasurer's Office, Town Hall, Newcastle-upon-Tyne, 1.

HENSHAW, ROBERT LOW, with Webb & Hall, 90, Deansgate, Manchester, 3.

HERRING, DUDLEY FOSTER, Assistant Tithe Accountant, Queen Anne's Bounty, Bounty Office, 3, Dean's Yard, Westminster, London, S.W.1.

HERSON, WILLIAM, Borough Treasurer's Department, Corporation Offices, Church Street, Folkestone.

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HONES, LESLIE EDWARD HENRY, County Accountant's Department, Kent County Council, Sessions House, Maidstone.

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KEYWORTH, JOHN MAX, formerly with Louis Nicholas and Co., 19, Castle Street, Liverpool.

LOWE, LESLIE TOM, with Cash, Stone & Co., 48, Copthall Avenue, London, E.C.2.

LUMSDEN, WILLIAM GRIEVE, Depute Town Chamberlain, Royal Burgh of Kirkcaldy, Kirkcaldy, Scotland.

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MASON, DOUGLAS HENRY, with Moustardiers, 69, Downs Road, London, E.5.

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MAWHINNEY, JAMES HARVEY, with Atkinson & Boyd, State Building, 18, Arthur Street, Belfast.

MILBURN, THOMAS STANLEY, with Bowman Pettifor, 71, Howard Street, North Shields.

MILLER, ROBERT RALPH, with Thornton & Thornton, Union Chambers, 63, Temple Row, Birmingham, 2.

MOBBS, DONALD JACK, with W. Smith & Co., 123, London Road North, Lowestoft.

NOBLE, JOHN, Burgh Treasurer, Burgh Chambers, Fraserburgh.

OLIVER, ALAN GEORGE, A.C.A. (Hackett & Oliver), 36, Cannon Street, Birmingham, Practising Accountant.

PAVIERE, FRANK LESLIE, A.C.A. (Clinch, Legge & Co.), 52, Bedford Row, London, W.C.1, Practising Accountant.

PAYNE, NORMAN WILLIAM, Borough Treasurer's Office, Warrington.

RAMASUBBA AIYAR, ALVARKURCHI VENKATASUBBAIYAR, B.A., Accountant-General's Office, Burma, Rangoon.

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RUSHMER, HAROLD EDWARD, with H. O. Bennett, 5, Opie Street, Norwich.

SCOTT, ROBERT DUNLOP IRWIN, with Hodge & Baxter, National Provincial Chambers, High Street, Kettering.

SCURRAH, JOE ERIC, with Thoseby, Son & Co., District Bank Chambers, Market Street, Bradford.

SEAL, JACK, with W. I. Swarbrick, 12, Guildhall Street, Preston.

SMAILES, FREDERICK CARRUTHERS, with F. P. Leach & Co., Severn House, 25, Upper Maudlin Street, Bristol.

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SUR, PURNANKA MOHAN, B.Sc., formerly with Maneck A. Davar & Co., 100, Clive Street, Calcutta.

SWAN, EDWARD GEORGE, with W. B. Keen & Co., 23, Queen Victoria Street, London, E.C.4.

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WRAGG, JOHN, with Henry J. Allen, 37, Surrey Street, Sheffield.

Correspondence.

Professional Etiquette.

To the Editors, *Incorporated Accountants' Journal.*

SIRS,—Apropos of the rules of professional etiquette, I should appreciate the opinion of your readers on the following :—

Is it a breach of professional etiquette for an Incorporated or a Chartered Accountant seeking employment with a commercial, banking or insurance concern, to advertise in newspapers, giving particulars of experience, name and address? Further, is it unprofessional to send round circular letters to heads of some big firms, inquiring if there are any jobs available under their control or management? I am under the impression that the rigid rules against advertising and circular apply only so far as canvassing for business on the part of a person in public practice is concerned. It does not apply to persons seeking employment.

"ARCADIA."

An Introduction to Income Tax Practice.

A LECTURE delivered before the Incorporated Accountants' Students' Society of London and District by

Mr. W. J. BACK,
INCORPORATED ACCOUNTANT.

The chair was occupied by Mr. WILLIAM STRACHAN, Incorporated Accountant.

The CHAIRMAN : Our subject to-night is "An Introduction to Income Tax Practice." It is a very important subject to the Accountant Student, and I am sure Mr. Back will deal with it in an interesting and instructive manner, and with his usual lucidity. Mr. Back requires no introduction to this audience. He has been lecturing to the students for a good many years now, and is well known to you all. I will, therefore, simply call upon him to deliver his lecture.

Mr. W. J. BACK : You will have gathered from the title of the paper this evening that my purpose is not to discuss specialised points on taxation practice of the kind that are frequently the subject of lectures, but to introduce the subject generally, and to talk of Income Tax work rather from the point of view of the student in the earlier stages than from that of those who have had a good deal of experience. If any experienced people have come here imagining that they are going to get new ideas or information not already known to them, I am afraid they will be disappointed.

It seems to me that with modern text-books and study notes, as circulated by the coaching institutions, there is a danger that the quantity of notes distributed and studied by students upon all the subjects in the syllabus may leave the students' minds in a certain amount of confusion, owing to the multiplicity of detail. It may very well be, therefore, particularly in view of the fact that the only study notes that are of real value are those he makes himself, that if the student is directed back to the original source of information, the Acts and the standard text-books, and instructed to make his own notes, it will be better for him in the long run.

The best way to understand income tax practice is to read the Income Tax Act of 1918. I am almost inclined to ask those present who have read the Income Tax Act to put their hands up. You have all read books about income tax and articles about it in the *Incorporated Accountants' Journal* and *The Accountant*, but I find that a great many people who have read such books and articles have failed to read the Act itself. I am reminded of a famous Doctor of Divinity who wrote a commentary on a certain part of Scripture and put the text at the top of each page, whilst his explanatory notes occupied most of each page. He gave a copy of that book to an old lady, and, some time afterwards, asked her how she was getting on with it, and she said that she found it quite easy to understand the bits at the top of the page, and she was doing her best with the rest. That may be true of income tax matters as well as of many others.

It is quite useless to expect that any system of taxation which endeavoured to secure uniformity among the taxpayers and to secure equity as between individual taxpayers could ever be simple in such a complicated world as the one we live in. No simple system, and no system that is capable of being simply expressed, could bring about anything like equity between the multitudes of varying circumstances that arise in the experience of taxpayers, and which have to be taken into account in

arriving at the amount of profits which are assessable to income tax.

In using the term "Income Tax Practice," I mean the method by which, in normal cases, effect is given to the provisions of the Statutes; and I want to suggest to you that the general outlines of the English income tax system are not difficult to grasp, and that they constitute a rational and intelligible system of taxation. If the student will grasp firmly the principles, he will go a very long way towards understanding the practice. I suggest also that far too much stress is laid on cases. The decisions of judges are of great importance in border-line cases, but, after all, the majority of matters with which we have to deal are not border-line cases; and if you have a firm grasp of the principles, you will be able to apply them to ninety, or perhaps ninety-nine per cent. of the matters that come before you.

I propose to consider this evening two or three questions. First of all, what is it that is sought to be taxed? secondly, who is to be subjected to tax? thirdly, how is the tax assessed?

(1) WHAT IS TAXED?

First of all, then, what is it that the Income Tax Act and the regulations set out to tax? Of course, it is very easy to say that "Income tax is a tax on income." That sounds quite simple; the only trouble about it is that it is not quite right. To begin with, the Act itself makes it clear that, strictly speaking, income tax is not a tax upon income, but upon a *source* of income, and that the income itself is the measure by which liability to tax is determined. Let me read to you one or two sections which make that clear:

As regard Schedule A, the rules begin by saying, "Tax under Schedule A shall be charged in respect of the *property* in all lands," &c. As regards Schedule B, it says "Tax under Schedule B shall be charged in respect of the *occupation* of all lands," &c. You see, the source of the income is the point which the Act stresses. And under Schedule D, somebody seriously challenged that principle—I refer to the case of *Whelan* v. *Henning*. Henning had no income from a particular source of income in the year of assessment, and it seemed to him unreasonable that he should be called upon to pay tax in respect of a fiscal year when there was no income in that period. The Courts agreed with him that the tax was a tax on income, and, therefore, there should be no tax. That decision so seriously alarmed the authorities that they did not go to the House of Lords. They simply waited for the next Finance Act, which was in 1926, and in that 1926 Act they said in sect. 22: "Where it is provided by the Income Tax Acts that income tax . . . is to be computed by reference to the amount of the profits or gains or income of some period preceding the year of assessment, then, notwithstanding that no profits or gains or income arise from that source or that property for or within the year of assessment, income tax as so computed shall be charged for that year." They went on to say in sub-sect. 2: "The foregoing provisions of this section shall be deemed always to have had effect." Captain Henning had maintained that he had no income, though he retained the source, and therefore that there should be no tax. This section, however, lays it down that notwithstanding that no income arose from a particular source in a particular year, the tax should be assessed, if the taxpayer still had possession of that source. That distinction is one of considerable practical importance, for you will see that it follows that there may be income when there is no tax, and there may be tax when there is no income.

Take your own case. Your employment is a source of income, and during 1935-6 you will be assessed on the amount of your salary for 1934-5. But let us suppose that an amalgamation, or something of that kind, takes place, and your services are dispensed with; you are discharged half way through the fiscal year, *i.e.*, at the end of September, and your employers are very kind to you and give you six months' salary as compensation for the loss of your employment. How much are you going to be assessed upon? The answer is that you will be assessed upon a half year's salary only, although you will have received the whole year's income. On the payment you received for the remaining six months, arising after the source had ceased, you will manage to escape assessment. On the other hand, supposing a director of a company is accustomed to receive fees of £500 per annum, but for the year ended December 31st, 1934, the company makes a loss, and the director then says he will take no fees for the year 1935-6. What will happen in that case? He remains a director of the company, but he is going to get no income whatever from that source; nevertheless, the unfortunate director will find himself assessed for 1935-6 upon his income in 1934, unless he has resigned his office.

The first thing, then, is that for income tax you have to prove that the taxpayer has a *source* of income.

The next thing you have to do is to provide a measure for that source of income; a value for the year must be attributed to it before you can be taxed. In the case of property, the ordinary annual value is fairly clear; there is the rent received from the property. Businesses are always a little more trouble owing to the fluctuating nature of the profits. From 1842, when the principles of income tax were laid down, until recently, the basis has been the average profits, in the case of mines for five years, and in the case of businesses on an average of three years. That basis has had certain advantages. It has had an advantage for the taxpayer in that if he happened to have one good year, it spread the tax over three years; and it had an advantage for the Revenue in that when the Chancellor of the Exchequer proceeded to make up his Budget, he always knew the result for two of the years that were going to enter into the three years' average, and he could compute roughly what amount of income tax Schedule D was going to produce for the year with which he was dealing.

Obviously, there were certain hardships and difficulties that had to be dealt with. First of all, there might be a taxpayer who owned two businesses, and he might make a loss in one and a profit in the other. There was, therefore, Rule 13 (Cases 1 and 2) that the loss incurred by a taxpayer in one business might be set off against the profit he earned in another business. But that did not greatly help the man who had one business only. In his case it meant that if he had been accustomed to make profits, and in a particular year made a loss, he was nevertheless paying in respect of the year when he had a loss on the average of the profits for preceding years, and he did not like that. Hence the provision under sect. 34 of the Income Tax Act, that where a particular source of income which had been used as the basis for a man's assessment in a particular year involved him in a loss, such an amount as represented the tax upon his loss during the year of assessment might be recovered.

Then, as you know, in 1926 the "average system" was abolished altogether, and sect. 33 of the 1926 Act provided that losses might be carried forward for six years or until they were absorbed in profits.

Well, this is the point to which we have now got: You have first of all to have a source of income, and then you have to measure the value of that source of income by the standards set up by the Act—standards which could never be simple, as I have suggested, because the variety

of circumstances involves a series of definitions and regulations which must lead to some complication, and in some cases may result in hardship, but which are rational and intelligent, and tend, in the main, to equity between taxpayers.

(2) WHO IS TAXED?

The second question I want to answer is, who is it that is subjected to tax? The answer is: (*a*) persons who are residents in this country, possessing a source of income, whether that source of income is at home or abroad; and (*b*) non-residents, possessing a source of income in this country, so far as the particular source which is in this country is concerned. You begin with the source and the tax is attached as closely as possible to the source. It is collected as far as possible at the source, but the tax is payable by the persons who own the source, and who receive the profits, it is not a charge on the profits. Such individuals are liable to be assessed to tax, whether the "source" be professional skill as a burglar or as a bookmaker, or the ownership of shares in a business or trade, or even the skill, knowledge and experience which enable you to make a habit of winning competitions. As regards the latter, you will not get caught if you win once, but if you make a habit of it, so that a source can be implied in your skill, knowledge and experience, you may find yourselves assessed to tax.

The liability to tax is not upon the business or the source of the income, but upon the person. Schedule A tax may be collected from the occupier of a house, but it is a tax on the person who receives the rent; consequently the occupier who pays is able to get it back again. In the case of a company, if it should distribute dividends equal to the precise figure of adjusted profits for tax, it might recover by deduction the whole of the tax from the shareholders. That distinction is made quite clear, for example, in the regulations with regard to partnerships, and conversely in the provisions in regard to surtax on companies' income which belongs to, but never reaches, the taxable person, but may be caught midway.

With regard to partnerships, Rule 10 in Cases 1 and 2 reads like this: "Where a trade or profession is carried on by two or more persons jointly, the tax in respect thereof shall be computed and stated jointly and in one sum . . . and a joint assessment shall be made in the partnership name."

And the Act itself by sect. 20 provides that: "Partners carrying on a trade, profession or vocation together . . . may claim any allowance or deduction according to their respective shares and interests."

That is to say, the source—the business—is first of all treated as an entity, and the amount of the profit assessable to tax is arrived at. Next the share of each individual partner is computed—computed on the basis arrived at by calculating the amount of profit which would accrue to each partner if the amount available for distribution amongst the partners was precisely the amount of the assessment. Then each partner makes his own return, which sets out his share of the partnership income as so computed, and any other income he may have, subject to any deductions to which he may be entitled, such as personal allowances, allowances for children, allowances for insurance, and various other things. Then the total tax is arrived at. It is assessed first of all upon the firm, but it is assessed upon the individuals through the firm, and is not to be regarded as a tax upon the firm. If one partner has a Rule 13 claim, he can make that separately; if he has a sect. 34 claim for loss, he makes that for himself.

The assessment is made upon the firm, but as each partner is personally liable, without limit for the partnership debts, he is liable for the tax on the whole of the assessed profits of the firm; fortunately this does not extend to liability for a partner's surtax, if he has to pay any.

Let me illustrate the really personal nature of the assessment of profits on a partnership:

The firm of Smith, Brown and Robinson pays a salary of £500 p.a. to Brown, after which profits are shared one-half, one-sixth, one-third.

	Total	Smith	Brown	Robinson
	£	£	£	£
In the first year under consideration there are profits	1,000			
Allocated		500	167	333
but there falls to be added back:				
Salary	500		500	
Making for assessment ..	1,500	500	667	333
But let us suppose that there was a loss brought forward under sect. 33 of the 1926 Act	1,200			
Shared		−600	−200	−400
Assessment will be on ..	300	−100	+467	−67
Tax will be paid on £300 and charged to Brown's account			300	
Leaving to carry forward	Nil	−100	+167	−67
Now suppose that in the next year there is a profit of	1,000	500	167	333
Salary to add back ..	500		500	
Assessment on ..	1,500			
Tax paid and allocated ..		400	834	266
and in the third year there is a loss of	800	−400	−133	−267
Salary to add back ..	500		500	
Leaving loss ..	300			
Allocated		−400	+367	−267
Smith makes a claim for repayment of tax otherwise paid (Rule 13), his "loss" is £400, but his claim is restricted to	300	300		
Loss to carry forward ..	Nil			
But as between partners		−100	+367	−267

In the first year the firm's return will show profit £300, and Brown will return profit £300, Smith and Robinson nil. The tax adjustment will have to be made between the partners; the Inland Revenue will not deal with it.

The second factor that I want to refer to is the factor of locality. There is a liability to tax in respect of income arising in the United Kingdom, and, in addition, there may be liability in respect of income arising abroad for the benefit of residents here. The principles of legislation with regard to residence are reasonably clear. I will read them to you.

General Rules, all Schedules. No. 3: "Every British subject whose ordinary residence has been in the United Kingdom"—you should not think of the words "ordinary" and "ordinary residence" as either mystic or cabalistic expressions; think of them as ordinary dictionary words (you will find them also in the Bankruptcy Act)—"Every British subject whose ordinary residence has been

in the United Kingdom shall be assessed and charged to tax, notwithstanding that at the time the assessment or charge is made he may have left the United Kingdom, if he has so left the United Kingdom for the purpose only of occasional residence abroad." That is to say, a British subject who enjoys the protection of the British Commonwealth and whose income grows up under that protection, is liable to contribute to the public revenue through the income tax, notwithstanding that he may occasionally go to the South of France or elsewhere to spend his holidays. Even though he should make a habit of going abroad annually and spending a considerable time abroad, so long as his base is in this country, and he goes abroad for what is described in the Act as an "occasional and temporary" purpose only, then he is liable.

A person who is not resident in this country, but who has a source of income here is liable at the standard rate (without allowances), Schedule D, Rule 1:

> "Tax under this schedule shall be charged in respect of
> (*a*) The annual profits or gains arising or accruing—
> (i) .....
> (ii) .....
> (iii) to any person, whether a British subject or not, although not resident in the United Kingdom, from any property whatever in the United Kingdom, or from any trade, profession or vocation, exercised within the United Kingdom,"

and Rule 6, all Schedules, provides the machinery for the assessment.

That, again, seems reasonable. If some non-resident takes advantage of the security of the British Commonwealth to acquire a source from which to make profits, then, although he himself is not a person within the jurisdiction of the English law, his source of income is, and he is liable to tax.

Then in "Miscellaneous Rules," under Schedule D, No. 2, we read: "A person shall not be charged to tax . . . as a person residing in the United Kingdom in respect of profits or gains received in respect of possessions or securities out of the United Kingdom who is in the United Kingdom for some temporary purpose only, and not with any view or intent of establishing his residence therein."

This is, of course, the converse of Rule 3. Rule 3 says that a person in English residence and out of the United Kingdom for a temporary purpose shall pay tax. This rule says that a foreigner residing here for a temporary purpose does not have to pay tax. By way of a rough and broad definition of what is meant by the expression "temporary residence," the rules go on to say that a foreigner for this purpose is a person who has not actually resided in the United Kingdom at one time or other for a period of six months. That is to say, it will be regarded as temporary unless it has extended beyond six months in any year of assessment, *i.e.*, the year ending April 5th.

There are various refinements arising out of the cases, but those are the principles, and the refinements relate to border-line cases. The word "residence" is to be thought of in its dictionary meaning, as a word which indicates some settled purpose and some continuity of dwelling in the place stated.

Lord Cave said in the House of Lords: "The suggestion that in order to determine whether a man is ordinarily resident in this country you must count the days he spends here, and those he spends elsewhere, and it is only if in any year the former are more numerous than the latter that he can be held to be resident here, appears to me to be without substance." The residence of the company is taken to be where its seat of control or its management is; of course, a person or a company may have more than one residence.

Then, broadly, the person whose ordinary residence is in this country is liable to tax on the whole of his income, whereas a visitor who stays here with some continuity, for not less than six months, becomes liable for that portion of his income which he remits to this country and spends in the course of his pleasure-making here.

(3) How is Tax Assessed?

The third point is, How is tax assessed? The answer is that the basic principle of English taxation is that of collection, as far as possible, at the source. Again let me read to you, for example, Schedule A, No. VII: "Tax under this schedule shall be charged on and paid by the occupier for the time being"; and No. VIII, 1: "A tenant occupier who pays the tax shall be entitled to deduct and retain . . . an amount representing the rate or rates of tax in force during the period through which the said rent was accruing due."

The tax is assessed upon the householder, the occupier, or upon the company on behalf of its shareholders, and is recoverable in both cases from those persons who ultimately receive the income—either the rent of the house or the dividends paid by the company. The system is cheap and it is convenient for the Revenue authorities, and it does to a considerable extent remove the incentive to concealment. The Royal Commission on Income Tax estimated that 70 per cent. of English income tax was collected at the source. The principle of collection at source was introduced in 1803 by Addington. The tax was then actually imposed at 5 per cent., whereas previously it had been imposed at 10 per cent., and the tax collected at the source on the 5 per cent. basis produced practically twice as much as the tax on the 10 per cent. basis not so collected had previously done. It is not surprising, therefore, that the Revenue authorities have thought it worth while to maintain that cheap method of collection, which puts the liability for collection on some person other than the ultimate payer, and so removes an incentive to the concealment of the facts.

The tax was originally very largely subject to local administration. The Commissioners were local and the Assessors were local. That original income tax, as instituted by William Pitt, was very unpopular; the politicians at that time thought that its unpopularity was due to the fact that the total income of a man had to be disclosed to local people, and that taxpayers objected to their neighbours in these local administrations knowing what their total income was, and what the various sources of it were. Therefore, when the tax was re-introduced by Addington in 1803, he required separate returns to be made in respect of each source of income, but there was no requirement that anybody should make a return of his total income. That is why the curious clause (sect. 43) was included in the 1927 Act. You may not have realised that that was the first time that a total income statement was required for income tax.

Sect. 43 of the 1927 Act says: "The provisions of the Income Tax Acts . . . shall be extended so as to require any individual upon whom a particular notice is served for that purpose to prepare and deliver . . . a true and correct return in the prescribed form of all the sources of his income and of the amount derived from each source."

Previously the result was achieved indirectly by the provision (now sect. 17, Finance Act, 1920) that personal allowances should depend upon the making of a total return, so that, in the end, most taxpayers found it desir-

able to make a total return in order to get their allowances. Whether, in fact, Addington's income tax was any more popular than Pitt's I am not sure, but he did split up income in that fashion, and the remains of that splitting are still to be discovered in the five Schedules A, B, C, D, and E.

You are, of course, familiar with the provisions in relation to the various Schedules. Schedule A deals with property in land as a source of income. It is charged upon the landlord ultimately, and, of course, there are the same rules as to allowances as in other Schedules. The annual value is taken to be the rent which would be obtained if there were no other considerations—the rack rent, as it is called—and the assessment would usually be in the district in which the property was situated. There is an allowance for repairs.

Schedule B deals with the occupation of land as a source of income. When a farmer, say, has taken a piece of land and pays rent for it, the rent goes to the landlord, but he expects to make a profit out of the working of the land, and that profit is assessed under Schedule B. Then comes the question of value. It was always supposed that farmers were incapable of keeping accounts. Why that should be so, I do not know, but so it was. Therefore the basis taken for Schedule B was that the ordinary rental value—the gross rental—should be regarded as income, subject, of course, to the right of the farmer to prove, if he could, that his income in the year of assessment was less. He need only be assessed on the rules under Schedule B if it pays him to be so assessed.

Then Schedule C deals with income coming to a man in the form of interest on the public funds.

Incidentally, the order of the Schedules is the order of importance at the time in which they came into being. The ownership of land was regarded as being the most important subject for taxation; therefore, that became Schedule A. The right to occupy land was the next most important, so it became Schedule B. Then those who were fortunate enough to have moneys invested in the public funds came in under Schedule C, whilst those who had to work for their living in trades, professions, or businesses got into Schedule D.

The normal basis of assessment is now the value of the sources during the preceding year. Certain special classes of income are dealt with differently, as, for example, the first year of a new business, when assessment is on the income of the year of assessment, or as the Commissioners may direct.

Schedule E deals with salaries, wages and pensions, and the normal basis is the income of the preceding year, but wages of manual labourers are assessed upon the income of the year of assessment.

The process of assessment begins with the making of returns by the taxpayer; the next step in the procedure is the agreement of liability with the inspector, who will then make an assessment. If you fail to agree, he may make an arbitrary assessment, and you will have to give notice of appeal. You may appeal to the Special Commissioners or to the General Commissioners. The General Commissioner's office is an honorary one, filled by local people with a property qualification, whereas the Special Commissioners are specialists, Civil Servants, who are experts on income tax. If you want to appeal on a complicated point, it is desirable that you should appeal to the Special Commissioners. The General Commissioners are not nearly so much impressed by technical points, but they are very useful for getting decisions upon questions of fact.

Then as to proceedings in an appeal. There is nothing to be frightened about. The atmosphere is nothing like the atmosphere of a Court of Law. It is very largely informal. The Commissioners who have to conduct the appeal sit round a table in a perfectly friendly manner. The taxpayer, or the accountant, will have a chance of saying what his point of view is; there will be questions and answers, and if you have a good case there will be no need to feel unduly nervous over having to appear and present the case before the Commissioners. Of course, if you have given notice of your dissatisfaction with the decision of the Commissioners, you can go to a Court of Law, but then the matter will be out of the accountant's hands, and the legal profession will take it over.

(4) Provision for Taxation.

Now I want to make one practical observation. I suggest that in the course of an audit and in the preparation of the accounts, a computation of liability to tax should always be included with the audit working papers, and it should be made by the man who has prepared the accounts, first of all, because it is good for the people on the detailed work of the job—it brings their minds down to the questions that have to be considered in relation to taxation and makes it much more likely that full information on all relative points will be available in the papers for the settlement of the taxation liability. Then, if it is a company, it will be necessary to make some provision in the accounts for the tax, and you will need the computation in order to do so.

There are, broadly, two bases upon which provision for taxation is made in the profit and loss account. First of all, the closing business basis. You may assume that the business is going to shut down on the day of your balance sheet, and compute what tax would be payable on that basis, or, alternatively, you may calculate the tax on all the profits earned up to the date of the balance sheet. That is, you may provide for the taxation liability of next year on this year's profits, thus bringing the charge as near as possible to the profits taxed. In deciding on a provision for taxation liability in the accounts of a company, you will have to bear in mind the tax that will be recovered from receivers of income on preference shares, from debenture-holders, or from shareholders receiving dividends, unless the dividend is to be declared free of tax. In the case of a sole trader he may prefer to have it charged to his drawings account, instead of to his profit and loss account. In the case of a partnership you will have to take care that the tax is not debited to the profit and loss account, because, as we have seen, it will not necessarily be shared among the partners in the same proportions as they share profits and losses.

Discussion.

The CHAIRMAN: I am sure you have all listened with very great interest to Mr. Back. As usual, he has been very clear and explicit. The meeting is now open for you to ask any questions you may wish.

Mr. E. J. GAMBLE: I want to ask Mr. Back one or two questions. With regard to what he said about reading the Income Tax Act, I have tried one or two sections myself, and have read some of the legal comments thereon, and my brain has been in a whirl after reading them. On the question of relation back and the case the Lecturer quoted of *Whelan* v. *Henning*, is it usual for the Revenue to relate law back in that way? It seems to me distinctly unfair to the taxpayer if they can do that. A point that I have not been quite clear upon is this: Where a sect. 34 claim is made for a loss, is that available to be claimed in the following year under Rule 13? I should also like to know if partnership income is deemed to be taxed at the source, or taxed by way of assessment on the individual partners? I raise this point, as I think it is usual in surtax assessments to take the actual income for the year, and not the income of the previous year in cases where income is taxed at source. Then, in sending a computation of the tax with the accounts, is it advisable

to leave out of the computation an item of a doubtful nature, and leave the inspector to raise the point? If the inspector does not query a non-allowable item, should it be pointed out to him?

Mr. BACK: When an item is of a doubtful nature, I would leave it out of the computation, but I would take care that it was made known to the Inspector in some form, so that he could not say afterwards that it was concealed from him. Partnership income is taxed by direct assessment. As to relating the law back, it is a most unfortunate practice of the authorities to tax retrospectively, or to "correct things," as they say, retrospectively. In the case of *Captain Henning*, they did not agree that they were doing that. The section was put in by way of clearness in order to show that it always had been so, and that they were not altering the law, but were only showing that the judges had been wrong. As to sect. 34, the loss so claimed is not available for a Rule 13 claim. If you use it in one way you cannot use it in the other way.

Mr. F. E. GILKS: I want to raise one or two points which were mentioned by Mr. Back, particularly with regard to surtax. I think he said in the early part of his lecture, when dealing with the recovery by a company not only of income tax, but also of surtax, that the company can recover it from its members. I think that is a very debatable point, and if he has any authority for it I shall be glad to hear it. Secondly, also on the question of surtax, he dealt with the 1927 Act, sect. 43, and he rather inferred that prior to that Act there was no obligation on a surtax payer to make an individual return. I am not quite certain of my date, but I think that was implied in sect. 5 of the 1918 Act, and sect. 43 was introduced more or less as a concession to public opinion to enable surtax payers to make one return instead of two. Then, as regards providing for income tax liability on a closing business basis, that is, of course, to compute the income tax liability on the profit shown by the accounts with which the auditor is dealing; in other words, the prudent course would be to compute the income tax liability up to date. You make a reserve for the income tax liability which will be ultimately assessed on the profit shown in the accounts under consideration.

Mr. BACK: You are perfectly right with regard to the liability to make a total return for surtax. I was speaking only of income tax when I said there was no liability to make a total return. For income tax purposes that was the case, but surtax payers had to make a total return. With regard to surtax on companies, as the questioner says, that is a very debatable point. What I had in mind was that companies, particularly those private companies to which the Surtax on Private Companies Regulations applies, are owned by comparatively few people. The surtax is, in fact, on the shareholder himself. As he owns the whole thing, it ultimately falls back upon him, even if not before liquidation. The provisions of the Act make sure that somebody pays it in the meantime. As to the closing business basis, I agree that the prudent course is to provide for all taxes up to date. I have come across cases in which the other course is adopted; the closing business basis in accordance with the Act is taken, and provision is made of such a sum as would be payable if the business was closed down at that date.

Mr. W. WELLS: If a person takes up the occupation of farming, producing milk and butter, &c., and then transfers such produce to a firm which he conducts himself as a retailer, can he be taxed under Schedule B, or will he be taxed under Schedule D?

Mr. BACK: I think the answer is that the trading will be taxed under Schedule D.

Mr. F. R. WITTY: With regard to the new method of calculating the allowance for wear and tear, is this retrospective, and if so, for how many years can one go back?

Mr. BACK: They can go back to the point at which the one-tenth came in—1933-34 (Finance Act, 1932, sect. 18).

Mr. H. T. SPEIRS: The Lecturer referred to the type of person who has an aptitude for making a living out of winning competitions. I have read of a case on that point, and I believe it went in favour of the taxpayer. That seems to indicate that income from that kind of thing is not income from a profession or vocation.

Mr. BACK: I do not remember that case.

Mr. SPEIRS: I think it was *Graham* v. *Green*.

Mr. BACK: I have certainly known of cases under which professional backers have had to pay, and bookmakers also.

Mr. L. JONES: Are the profits on illegal transactions assessable?

Mr. BACK: Yes; illegal profits have been dealt with in a number of cases. There was one case in which a man was betting systematically on the race-course, and he had to pay. A man who was engaged in smuggling operations also had to pay. *Graham* v. *Green* in 1925 was a case of betting by a non-professional person from his house, and the decision went in his favour. Mr. Justice Rowlatt said in that case: "A bet is merely an irrational agreement—there is no relevance at all between the event and the acquisition of property." In a case of street betting the man had to pay. That seems to cover most of these illegal practices.

Mr. SPEIRS: Does it mean that a person who backs a horse and loses can make a sect. 34 claim?

Mr. BACK: No, but if a bookmaker conducts a regular business in that kind of thing, so that he establishes a means of livelihood, he could claim under sect. 34, assuming that they were not street bookmaking debts, which he would find it difficult to prove.

The CHAIRMAN: We have had a very interesting evening, and I think it is exceedingly important that students should get the principles of income tax well into their minds to start with. They will then find it much easier to understand the problems which arise in all the border-line cases that come before the Courts. With regard to the question of making a reserve for income tax at the end of each financial year, I was not quite clear about Mr. Back's explanation. If the accounts are made up to December 31st you can either provide a reserve for the whole tax up to April 5th, or for the tax to December 31st only, and you would arrive at the latter figure by taking three-fourths of the tax for the whole year.

Mr. BACK: That is so.

The CHAIRMAN: I thought there might be some confusion with regard to your remark that a statement of accounts might be prepared as if the business were to be closed down at December 31st. It is preferable to provide for the tax up to April 5th, but sometimes when a company, or a firm, is not making very substantial profits or is possibly making a loss, they do not want to bring in any more liability than they can possibly help. In any case, I think it is advisable that a uniform method should be adopted. With regard to the question of surtax in the case of companies, I think it is clear that if a company is assessed for surtax it cannot recover from the shareholder or shareholders in whose names the assessment was made. On the other hand, as Mr. Back pointed out, if it is a one-man company, it does not make much difference because it falls on the same person in any case. If, however, it is a company where there are several shareholders, and they are not all subject to surtax, the result may be different. In any case, I do not think there is any provision in the Acts for a company to recover from its shareholders money paid in respect of an assessment of that kind.

Mr. G. ROBY PRIDIE: We have in the chair to-night a gentleman who was elected a member of the original Committee of this Society at the date of its foundation, some 45 years ago, and I am sure we are all delighted that Mr. Strachan still actively participates in our affairs as a member of the present-day Committee. In addition, Mr. Strachan has served us well in the respective offices of Vice-President and President, and at no time since his original election has he relaxed his personal interest in the progress and well-being of the London Students' Society. I now call upon you to accord a hearty vote of thanks to our Chairman, not only for his presence here this evening, but also for the continuous support and interest he has always so freely shown in all our activities. The vote was unanimously carried.

INCOME TAXES IN ALBERTA AND SASKATCHEWAN.

The following has been received from a Canadian correspondent. It seems rather extraordinary that the Provincial and Federal taxes taken together should sometimes in the case of very large incomes amount to more than the taxpayer's total income.

INCOME TAXES PAYABLE IN ALBERTA IN 1936.

Income.	Provincial Tax.	Federal Tax, including Sur-Tax.	Total Tax.	Percentage of Income.
$	$	$	$	
1,000,00	—	—	—	—
2,000.00	5.00	—	5.00	0.25
5,000.00	60.00	120.00	180.00	3.60
10,000.00	385.00	546.00	931.00	9.31
15,000.00	995.00	1,260.00	2,255.00	15.03
20,000.00	1,905.00	2,362.50	4,267.50	21.34
25,000.00	3,115.00	3,748.50	6,863.50	27.45
50,000.00	10,580.00	11,728.50	22,308.50	44.62
75,000.00	18,080.00	21,336.00	39,416.00	52.55
100,000.00	25,580.00	32,518.50	58,098.50	58.10
150,000.00	40,580.00	58,138.50	98,718.50	65.81
200,000.00	55,580.00	86,184.00	141,764.00	70.88
250,000.00	70,580.00	115,804.50	186,384.50	74.55
300,000.00	85,580.00	146,475.00	232,055.00	77.35
400,000.00	115,580.00	210,966.00	326,546.00	81.64
500,000.00	145,580.00	278,649.00	424,229.00	84.85
750,000.00	220,580.00	451,878.00	672,458.00	89.66
1,000,000.00	295,580.00	625,128.00	920,708.00	92.07

INCOME TAXES PAYABLE IN SASKATCHEWAN IN 1936.

Income.	Provincial Tax.	Federal Tax, including Sur-Tax.	Total Tax.	Percentage of Income.
$	$	$	$	
1,000.00	—	—	—	—
2,000.00	11.50	—	11.50	0.57
5,000.00	112.50	120.00	232.50	4.65
10,000.00	488.25	546.00	1,034.25	10.34
15,000.00	1,120.87	1,260.00	2,380.87	15.87
20,000.00	2,016.00	2,362.50	4,378.50	21.89
25,000.00	3,103.27	3,748.50	6,851.77	27.41
50,000.00	9,327.15	11,728.50	21,055.65	42.11
75,000.00	16,863.52	21,336.00	38,199.52	50.93
100,000.00	25,712.40	32,518.50	58,230.90	58.23
150,000.00	46,111.27	58,138.50	104,249.77	69.50
200,000.00	68,393.32	86,184.00	154,577.32	77.29
250,000.00	91,478.10	115,804.50	207,282.60	82.91
300,000.00	115,087.87	146,475.00	261,562.87	87.19
400,000.00	163,882.42	210,966.00	374,848.42	93.71
500,000.00	214,776.97	278,649.00	493,425.97	98.68
750,000.00	346,011.75	451,878.00	797,889.75	106.39
1,000,000.00	477,261.75	625,128.00	1,102,389.75	110.24

Changes and Removals.

Mr. W. A. Abercrombie, Incorporated Accountant, has changed his address to 31, Glasgow Road, Paisley.

Mr. Wade Hustwick has taken into partnership Mr. M. W. Hustwick. The business will be continued under the style of Wade Hustwick & Sons, Incorporated Accountants, at 70, Kirkgate, Bradford; also at Shipley and Keighley.

Mr. J. Hedley Janes, Incorporated Accountant, has removed his office to Union Bank Chambers, Market Place, Macclesfield.

Mr. John Mackie, F.C.A., Incorporated Accountant, announces that he is now practising at 39, Dawson Street, Dublin.

Mr. T. H. O'Brien, Incorporated Accountant, has commenced public practice at 400, Blackburn Assurance Chambers, 151, Dale Street, Liverpool.

Practical Points on Executorship Accounts.

A LECTURE delivered before the Incorporated Accountants' Students' Society of London and District by

MR. IVOR JOHNSON,
INCORPORATED ACCOUNTANT.

The chair was occupied by Mr. A. H. HUGHES, Incorporated Accountant.

Mr. JOHNSON said: The importance of properly kept accounts relating to the estates of deceased persons is widely recognised, and I will endeavour this evening to outline some of the points that may arise in the preparation of such accounts.

It is the duty of the personal representatives to keep proper accounts for all transactions for which they are responsible as laid down in the cases of *Hardwick* v. *Vernon* and *Springett* v. *Dashwood*. If the trustee is controlling several trusts, then separate accounts must be kept for each trust (*Freeman* v. *Fairlie*). The decisions in the cases mentioned are supported by the provisions of the Trustee Act, 1906, whereby any beneficiary may apply to the Court to have the accounts of a trust audited by an independent auditor. Let us consider the type of accounts which will best answer these requirements.

A separate banking account should be opened, and a separate set of books should be used to record in the fullest detail the transactions of the personal representatives in administering and distributing the estate.

The first question that arises is as to the method of accounting that should be employed for this purpose.

There are three possible methods:—

(1) The solicitors' system;

(2) The synoptic system;

(3) The commercial system.

Under the solicitors' system the transactions are recorded on a cash basis and only memorandum entries are made regarding assets and liabilities until actually realised or paid.

By the synoptic system an analysed cash journal is used. Every account is given a separate heading in the journal. Thus all ledger accounts are shown in columnar form. The details of the various accounts are given on separate schedules.

The commercial system is widely used in this country, and is the method which is advocated as possessing all the advantages of the other systems. It is considerably easier to operate, and interim and final accounts can be more readily prepared therefrom.

BOOKS REQUIRED.

The books that are required to operate the commercial system are:—

(1) Cash book;

(2) Ledger;

(3) Journal.

If the estate comprises numerous properties and investments a rent roll and investment ledger may be necessary. A minute book should also be kept if there are several executors and there is the possibility of disputes arising while the estate is being administered. All the executors should sign the minutes of each meeting and thus provide clear evidence of their agreement with the various decisions made from time to time.

The cash book and ledger should be ruled with two columns representing income and capital. The opening

entries will be taken from the figures appearing on the estate duty account. All entries should be carefully described, and wherever possible the journal should be used. It is essential that, as far as possible, the accounts should be self-explanatory in view of the possibility of disputes arising many years after the books have been written up, necessitating the production of the books in Court. As far as possible all entries should be supported by the appropriate vouchers, which should be carefully filed away and indexed.

In theory the personal representatives are responsible for keeping proper accounts of the estate, but in practice it is usual for professional accountants to be called in for this purpose.

The lawyers acting for the estate usually prepare the estate duty account. In this case the accountants are not required to act until after the estate duty account has been filed and estate duty paid. Of course, this is not always the case, and in some circumstances it is advisable that the accountants should co-operate with the lawyers from the commencement. In either case it is essential that the accountant should possess a sound knowledge of executorship law in order to enable him to deal with the various points that may arise in the administration of an estate.

The first duty of the accountant is to check the valuation of the various assets as listed in the estate duty account and to prepare a summary of the will from a financial aspect. He will then be in a position to commence to write up the books of account.

The following are details of an example which incorporates some points which may be met in practice or in the examination hall, the working out of which is appended.

J. Browne died on April 1st, 1934. His estate included the following property (show the entries in the estate ledger for the first year, income tax to be ignored; his executors had power to retain the investments if considered desirable):—

Ten thousand pounds 2½ per cent. Consols quoted at 80 to 81.

One thousand 6 per cent. cumulative preference shares in Fine Spinners, Ltd., quoted 20s. 6d. to 21s. 6d. in Manchester and 20s. to 21s. in Liverpool. No dividend had been paid since June 30th, 1930. On September 30th, 1934, all arrears were paid to June 30th, 1934. One-third of the profits which enabled the dividend to be declared were earned during the year ended June 30th, 1933, and the balance in the following year. Five hundred shares were sold on October 31st, 1934, at 22s.

Five hundred £1 ordinary shares of the A1 Tea Company, quoted 40s. to 41s. on December 31st, 1934. The company paid a final dividend of 10 per cent. for the year ended August 31st, 1934; at the same time shareholders were given the opportunity to take up one new share for every ten already held at 30s per share. The "rights" of the estate were sold on January 5th, 1935, for 9s. 6d. each. The company had previously paid an interim dividend of 10 per cent. on February 28th, 1934.

One thousand pound family protection policy. The executors were given the option of accepting £2,350 in settlement or £250 payable immediately, followed by ten annual payments of £150 each and a final lump sum of £750. The executors decided to accept the latter alternative.

Five thousand pounds payable under a newspaper insurance policy with the *Daily Echo* as Browne's death was the result of a railway accident. Mrs. Browne was the subscriber to the newspaper.

Five thousand ordinary shares of £1 each in J. Browne, Ltd. Regular dividends of 15 per cent. per annum have been paid on these shares. The company is a private one, and under a provision of the Articles of Association, shares of deceased members can only be sold at par to existing members. The usual dividend for the year ended June 30th, 1934, was paid on October 15th, 1934.

One hundred shares of £5 each, £1 paid, of the Stonybroke Insurance Company, quoted at 10s. to 11s. discount. These were disposed of on June 15th, 1934, at 9s. discount.

Ten thousand francs 3 per cent. French Rentes, quoted at 21 to 23. Sold June 1st, 1934, at 22.

Freehold house in Belfast value £1,000.

Freehold house in Surrey value £2,000, let at a rental at £150 per annum, payable on the usual quarter days. A mortgage of £1,000 was secured on this property at 5 per cent. per annum, payable on July 1st and January 1st.

One-third share of Baker, Browne & Co. At the date of death the assets were valued at £60,000, including £20,000 realty. Browne's share was aid out on October 1st, 1934.

The creditors amounted to £500, including a statute-barred debt of £100 to A. Jones.

2½% CONSOLS.

		Income.			Capital.		
1934.		£	s.	d.	£	s.	d.
April 1	To Estate Account £10,000 at 80¼ x.d.				8,025	0	0
	To Estate Account Qtrs. Interest				62	10	0
1935.							
April 1	To Income Account ..	190	6	0			
		£190	6	0	£8,087	10	0

		Income.			Capital.		
1934.		£	s.	d.	£	s.	d.
April 5	By Qtrs. Interest £62 10s. Cap. 86/90, Income 4/90	2	16	0	59	14	0
July 5	By Qtrs. Interest ..	62	10	0			
Oct. 5	do. do.	62	10	0			
1935.							
Jan. 5	do. do.	62	10	0			
April 1	By Balance £10,000 stock c/d.				8,027	16	0
		£190	6	0	£8,087	10	0

For estate duty purposes securities are valued at one quarter up from the lower of the two quotations. 2½ per cent. Consols are of course quoted ex-div. on April 1st and consequently a full quarter's interest must be added to this value. When this interest is received by the estate it should be apportioned on a day-to-day basis between income and capital by reference to the period to which it refers.

No credit should be taken for the quarter's interest to be received on April 5th, 1935, in the accounts for the year ended April 1st, 1935. Income should never be anticipated in estate accounts. If this principle is followed it is impossible for the personal representatives to over distribute the income.

FINE SPINNERS, LTD., 6 PER CENT. CUM. PREF. SHARES.

1934.		Income. £ s. d.	Capital. £ s. d.
April 1	To Estate Account 1,000 shares at 20s. 9d. ..		1,037 10 0
Oct. 31	To Estate Account Profit on sale 500 shares ..		121 15 0
1935.			
April 1	To Income Account ..	59 0 0	
		£59 0 0	£1,159 5 0

1934.		Income. £ s. d.	Capital. £ s. d.
Sept. 30	By Cash 4 years Div. to June 30, 1934, £240. App. Cap. 275/365, Income 90/365.. ..	59 0 0	181 0 0
Oct. 31	By Sale 500 shares at 22s.		550 0 0
1935.			
April 1	By Balance 500 shares c/d.		428 5 0
		£59 0 0	£1,159 5 0

If shares are quoted on more than one Stock Exchange the higher quotation must be used. It was held in the case of *Ellesmere v. Inland Revenue Commissioners* that the open market value means the best possible price. The shares have therefore been valued at a quarter up on the Manchester quotation.

As these shares have been quoted on a provincial stock exchange a copy of the official list of the Manchester Stock Exchange should be submitted with the estate duty account.

Arrears of dividend on cumulative preference shares should be apportioned between income and capital with reference to the period of the appropriation account out of which the dividend is declared, irrespective of the number of years covered by the dividend, the date of the declaration of the dividend, or the period during which the necessary profits were earned. In this case the apportionment is therefore made in respect of the year ended June 30th, 1934.

When calculating the profit or loss on the sale of a portion of an investment it is necessary in order to determine the book value to deduct from the estate duty value any apportionment of capital in respect of dividends received subsequent to death. In this case the book value of 1,000 shares is £1,037 10s.—less £181, which is £856 10s. The book value of 500 shares is therefore £428 5s. These were sold for £550 and the profit on sale is therefore £121 5s., which has been transferred to the credit of estate account.

The portion of the dividend relating to income is transferred to income account at the end of the year and 500 shares value £428 5s. is carried down as a balance.

A.1 TEA COMPANY. £1 ORDINARY SHARES.

1934.		Income. £ s. d.	Capital. £ s. d.
April 1	To Estate Account 500 shares at 40s. 3d. ..		1,006 5 0
1935.			
April 1	To Income Account ..	41 13 0	
		£41 13 0	£1,006 5 0

1934.		Income. £ s. d.	Capital. £ s. d.
Dec. 31	By Cash Final Div. 10 per cent. for year ended August 31st, 1934 (Int. Div. 10 per cent.). App. Cap. 213/365 = £58 7s. Inc. 152/365 of £100 = £41 13s.	41 13 0	8 7 0
1935.			
Jan. 5	By sale of 50 Bonus "rights" at 9s. 6d. ..		23 15 0
April 1	By Balance 500 shares c/d.		974 3 0
		£41 13 0	£1,006 5 0

In order to apportion a final dividend when an interim dividend has been declared before death it is necessary to add the final dividend to the interim dividend and apportion the total of the two dividends in respect of the period for which they are declared.

The amount to be taken as income must not be greater than the amount of the dividend received since the death. The interim dividend received before death must always be considered to be capital following the decision in *Ellis v. Rowbotham*.

In the example the two dividends have been aggregated and apportioned for the year ended August 31st, 1934.

The sale of the "rights" to take up the bonus shares should be treated as a capital receipt. I consider that it is more prudent to use this profit to reduce the book value of the investment rather than transfer it to the credit of estate account, although I do not think that any objection could be raised if the latter course was adopted.

As a general rule bonus shares should be regarded as a capital receipt (*Bouche v. Sproule*). If, however, the company gives shareholders the alternative of either accepting shares or cash the personal representatives must accept the offer which is most advantageous (*re Evans*). If cash is accepted this will be treated as income, but if shares are taken they will be charged in favour of income to the extent of the cash alternative. Thus if the personal representatives are offered £100 or 100 £1 shares and the shares are accepted, when these shares are sold £100 of the proceeds will be income and the balance will be capital. If the shares are sold for less than £100 the entire proceeds will be income.

INSURANCE POLICY.

1934.		Income. £ s. d.	Capital. £ s. d.
April 1	To Estate Account ..		2,350 0 0
1935.			
April 1	To Income Account ..	16 0 0	
		£16 0 0	£2,350 0 0

1934.		Income. £ s. d.	Capital. £ s. d.
June 1	By Cash		250 0
1935.			
April 1	By Cash	16 0 0	134 0 0
	By Balance c/d. ..		1,966 0 0
		£16 0 0	£2,350 0 0

In cases where the personal representatives are given alternatives as to the manner in which the proceeds of an insurance policy are to be paid the value for estate duty purposes is the total amount the insurance company offer to pay in full settlement as soon as death has been

proved. The value of the policy in question is therefore £2,350, which should be credited to estate account and debited to insurance policy account.

So far as I am aware there is no case bearing on the treatment of such a policy as regards apportionment between income and capital. In my opinion the difference between the value of the policy at death and the total amount that will be eventually received should be treated as income.

In the present example £16 of the first instalment has been treated as income and has therefore been transferred to the credit of income account.

The final payment of £750 will be capital.

INSURANCE POLICY WITH *DAILY ECHO*.

The £5,000 received by the widow in respect of the insurance policy with the *Daily Echo* is not subject to Estate Duty and should not be included in the estate accounts. The reason being that Mrs. Browne was the subscriber to the newspaper.

Of course, had Mr. Browne been the subscriber, the proceeds would have formed part of his estate and duty would have been paid thereon.

J. BROWNE, LTD.

1934.		Income. £ s. d.	Capital. £ s. d.
April 1	To Estate Account 5,000 shares at 20s.		5,000 0 0
1935.			
April 1	To Income Account	185 0 0	
		£185 0 0	£5,000 0 0

J. BROWNE, LTD.

1934.		Income. £ s. d.	Capital. £ s. d.
Oct. 1	By 15% Div. year to June 30th, 1934=£750 app. Cap. 275/365 Inc. 90/365 ..	185 0 0	565 0 0
1935.			
April 1	„ Balance 5,000 shares c/d ..		4,435 0 0
		£185 0 0	£5,000 0 0

When valuing the shares of a private company an open market must be assumed, following the decision in *Attorney-General* v. *Jameson*.

If the Articles of Association of the company contain a provision that the shares of a deceased member must be sold to the directors or shareholders at a fixed price, then such price is the value for Estate Duty purposes (*Salvesens Trustees* v. *Inland Revenue Commissioners*). When the Articles only provide that the shares must first be offered to certain persons at a fixed price, then the shares must be valued in the ordinary way, but a reduction will be allowed by the Revenue because of this restriction if the ordinary value is higher than the fixed price.

STONYBROKE INSURANCE COMPANY.

1934.		£ s. d.
June 15	To Cash Sale of 100 shares at 9s. discount	45 0 0
	„ Estate Account. Profit on sale of shares	8 15 0
		£53 15 0

1934.		£ s. d.
April 1	By Estate Account 100 shares £5 each, £1 paid at 10s. 9d. discount	53 15 0
		£53 15 0

Shares quoted at a discount are valued at one-quarter down from the higher of the two prices and for Estate Duty purposes are treated as a debt owing at the date of death and deducted from the value of the estate.

1934	3 per cent. French Rentes.	£ s. d.
April 1	To Estate Account Fcs. 10,000 at 21½=Fcs. 2,150 at 25	86 0 0
June 1	„ To Estate Account. Profit on sale of stock	2 0 0
		£88 0 0

1934.		£ s. d.
June 1	By sale Fcs. 10,000 at 22=Fcs. 2,200 at 25	88 0 0
		£88 0 0

Where the nominal value of foreign or colonial securities is given in a non-sterling currency, the Stock Exchange quotations in this country are based on a fixed rate of exchange. For example, francs are calculated at 25 to the £ and German marks at 20 to £. Any fluctuations in the exchange rates between the two currencies are adjusted in the quoted price, and thus it is unnecessary to know the foreign rate of exchange when valuing such securities.

Realty in Belfast is not liable to estate duty in this country, but an account should be opened in the books of the estate to record the existence of this property.

FREEHOLD PROPERTY.

1934.		Income. £ s. d.	Capital. £ s. d.
April 1	To Estate Account		2,000 0 0
	„ Do. Rent accrued 6/91 ..		2 9 0
July 1	„ Cash Mortgage Interest ..	12 10 0	12 10 0
1935.			
Jan. 1	„ Cash Mortgage Interest ..	25 0 0	
April 1	„ Mortgage Interest accrued to date c/d ..	12 10 0	
	„ Income Account	97 11 0	
	„ Balance Mortgage c/d ..		1,000 0 0
		£147 11 0	£3,014 19 0

FREEHOLD PROPERTY.

1934.		Income. £ s. d.	Capital. £ s. d.
April 1	By Estate Account Mortgage ..		1,000 0 0
	„ Do. Interest accrued 90/182 of £25 ..		12 10 0
June 24	„ Cash Rent ..	35 1 0	2 9 0
Sept. 29	„ Do. ..	37 10 0	
Dec. 25	„ Do. ..	37 10 0	
1935.			
Mar. 25	„ Do. ..	37 10 0	
April 1	„ Balance c/d..		2,000 0 0
		£147 11 0	£3,014 19 0

The accruals of rent and mortgage interest will have been calculated for the purpose of preparing the Estate Duty account. When the first quarter's rent is received and the first half-year's interest paid, these will be apportioned in accordance therewith.

At the date of preparing the accounts mortgage interest should be fully reserved for, but rent receivable should not be accrued.

If considered advisable, the mortgage can be shown on a separate account.

BAKER, BROWNE & CO.

			Income.	Capital.
1934.			£ s. d.	£ s. d.
April 1	To	Estate Account ..		20,000 0 0
Oct. 1	,,	Income Account ..	500 0 0	
			£500 0 0	£20,000 0 0

			Income.	Capital.
1934.			£ s. d.	£ s. d.
Oct. 1	By	Cash ..		20,000 0 0
	,,	5% Interest to date	500 0 0	
			£500 0 0	£20,000 0 0

The rules governing the repayment of a partner's share will largely depend upon the terms of the particular partnership agreement. Under sect. 42 of the Partnership Act, 1890, if the business is carried on by the remaining partners and there is no agreement to the contrary, the personal representatives have the option of accepting such share of the profits of the business earned since the death as the Court decides relate to the assets of the deceased partner, or interest at 5 per cent. per annum on the value of the partner's share.

A share of partnership assets is personalty for Estate Duty purposes, although part of the assets of the partnership may consist of realty.

The share of a partnership will be valued by the remaining partners, who will issue a certificate giving the necessary particulars.

Statute barred debts should be paid by the estate (*Williamson* v. *Naylor*), but this will not be considered to be a legacy, and legacy duty will not be payable by the recipient.

General Observations.

As already mentioned, it is the duty of the personal representative to keep faithful and accurate accounts of the estate he is administering. The personal representative is frequently not capable of keeping these accounts himself and he is entitled to employ a professional accountant for that purpose. The fees of such an accountant are a legitimate charge against the estate.

If an estate has not been fully wound up by the end of the first year, accounts should be prepared as at the anniversary of the death and a copy forwarded to each of the residuary beneficiaries. Further accounts should be prepared when the executorship has been completed.

In the case of a trust, accounts should be prepared annually on the anniversary of the death and a copy issued to each of the life tenants. When the trust comes to an end, accounts should be issued to the remainderman giving full details of the capital to which he is entitled.

As to the form in which the accounts should be presented, I think that this should consist of a balance sheet and a summary of the principal accounts appearing in the estate books. In practice the set of accounts will consist of the following, although the particular circumstances of each estate may alter the method adopted :—

(1) Balance Sheet.
(2) Estate Capital Account.
(3) Income Account.
(4) Legacies and Devises Account.

If the estate has been completely wound up the balance sheet will only consist of cash at bank and the amounts due to each of the residuary beneficiaries.

A schedule of investments should be annexed giving in detail the value of each investment at the date of death, apportionments of income received after death, investments purchased during the executorship, details of the sale of stocks and the profit or loss arising on such sales.

Separate schedules should also be given of freehold and leasehold properties showing the value at death of each property, the proceeds of the sale of properties, and the profit or loss arising thereon.

Where the estate has not been fully wound up the list of investments and properties can be shown on the face of the balance sheet, but if these are numerous separate schedules on the lines indicated are to be preferred.

The estate capital account should be a summarised copy of the account appearing in the estate ledger. A balance should be struck showing the value of the estate on which estate duty was paid after adjustments have been made as shown in the corrective affidavit, if any.

Where the estate has been fully administered with the exception of distributing the residue, a balance should be brought down and divided amongst the residuary beneficiaries as shown on the balance sheet. In other cases it is advisable that the total balance on the estate account should be carried to the balance sheet and no division made between the residuary beneficiaries in the interim accounts. If the accountant is particularly requested to give an estimate of the amounts due to each beneficiary, it is best that this should be inserted as a carefully-worded paragraph in his report on the accounts. This is advisable in case the final distribution should fall short of the estimate.

The income account should give details of the amounts received from each investment or property of the estate after making the usual apportionments between income and capital. No credit should be taken for any income not actually received by the estate, in order to prevent any over-distribution of income. The personal representatives would be personally liable for any loss arising in this manner.

All expenses should be fully reserved for. The division of the net income between the persons entitled thereto should be clearly shown.

The legacies and devises account should contain full details of all legacies bequeathed by the deceased, together with particulars of legacy or succession duty paid thereon. The balance on the account will be transferred to the debit of estate capital account.

The personal representatives should give any additional information to the beneficiaries or other interested party that may be required, and if requested they should allow them to examine the books of the estate.

It is a good plan for the residuary beneficiaries to sign separate statements on the face of one of the copies of the final balance sheet to the effect that after having made a careful examination of the accounts they are satisfied with the manner in which the estate has been administered, and that upon receipt of the amount stated to be due to them on the balance sheet they will have no further claim against the executors or the estate.

Audit.

Under the provisions of sect. 13 of the Public Trustee Act, 1906, any trustee or beneficiary may make application

to the Court to have the accounts of a trust investigated by an independent auditor. Such an audit cannot take place more frequently than once in every twelve months.

Under sect. 22 of the Trustee Act, 1925, trustees may cause the accounts to be audited not more than once in every three years by an independent auditor, unless the particular circumstances warrant a more frequent audit.

The costs of such an audit are to be split between income and capital in the proportions agreed by the trustees.

AUDIT PROGRAMME.

The following is an outline of an audit programme which might need to be modified to suit the particular circumstances of the case under consideration.

(1) Examine the probate of the will and codicils, if any, and prepare a summary of the provisions of the will, unless an epitome has already been prepared, in which case this should be carefully checked. Enquire if any instructions have been received from the Court.

(2) Examine the copy of the estate duty account and corrective affidavits, if any. Check the valuations appearing thereon, and vouch the opening entries in the estate ledger with the figures appearing thereon. Examine the residuary account, and check with the books.

(3) Check the cash book with the bank pass book, and obtain a certificate of the balance from the bankers. Check all casts and postings to the ledger.

(4) Vouch all receipts with dividend counterfoils, rent collectors' statements and other suitable documents. Check all apportionments between income and capital.

(5) Vouch payments with receipts, brokers' notes, &c. See that all payments are correctly split between income and capital.

(6) Vouch all journal entries and check postings to ledger.

(7) Verify the property of the estate with share certificates, title deeds, &c., and see that all investments are of a type authorised under the terms of the will.

(8) Ascertain before the residue is distributed that all creditors have been paid, that all income tax and surtax assessments have been properly adjusted, that all duties have been paid, and that all unpaid liabilities have been reserved for.

(9) Peruse the minute book, if any, to ascertain the decisions arrived at by the personal representatives in administering the estate.

(10) Check all legacies and devises with the terms of the will, and see that the necessary duties have been paid thereon.

(11) Check the balance sheet and accounts to be presented to the beneficiaries with the estate books.

The audit certificate required by the Trustee Act, 1906, is as follows :—

"I hereby certify that the above accounts exhibit a true and correct view of the state of the affairs of the —— Trust, and that I have had the securities of the Trust Fund Investments produced to me, and that I have verified the same."

If any irregularities have been found during the course of the audit the certificate must be qualified accordingly.

TRUST ACCOUNTS FOR MINORS.

When funds are left in trust for the benefit of minors, special rules apply as to the method by which the income of the fund is to be distributed between the beneficiaries.

The income from the estate funds will be credited to income account, and any expenses incurred in running the estate will be debited thereto.

The net income will then be divided between the minors in accordance with the terms of the will or trust deed creating the fund and credited to their respective accumulations accounts.

All sums expended by the trustees on the education and maintenance of the minors will be debited to the accumulations accounts, and not to income account.

Provided the income is sufficient, funds will gradually accumulate, and these should be invested in trustee securities. Such investments will be known as "Accumulations of Income Investments," and should be segregated from the general funds of the trust.

The income from the accumulations investments should be credited to the accumulations accounts of the minors in proportion to the balances standing to their respective accounts at the commencement of each year.

If any investment is made during a year, the income arising therefrom should be apportioned in accordance with the accumulations accounts as at the date of purchase. Interim accounts will probably have to be prepared for the purpose of making this calculation.

Accounts for the trust should be prepared annually by the trustees, and a copy for each minor should be deposited with the bankers or at some other safe place. Each child, on the attainment of his majority, will be handed these accounts, and he will then possess a complete record of the transactions of the trust from its inception.

It is important from a taxation viewpoint that details of the income of the trust should be preserved, because each beneficiary may claim, within six years of attaining his majority, repayment of tax on his personal allowances by reference to his share of income for each year during which he was a beneficiary under the trust.

Annual expenditure on education and maintenance of a minor should be grossed up and returned annually for income tax purposes. Tax will be repaid thereon in respect of the personal allowances of the child, and the proceeds of the repayment claim will be credited to his accumulations account. These interim repayments will of course be taken into account when calculating the final claim upon the attainment of his majority.

This claim is only necessary if the minors' interest in the trust is contingent. If they possess an absolute interest, their respective shares of the income will be returned annually and tax recovered at the end of each fiscal year.

DISTRIBUTION.

When one of the children of the trust comes of age, it is necessary to revalue all the property comprised under the trust in order to ascertain the share to which he is entitled.

Any profit or loss on the general funds will be transferred to the estate capital account. The share of the beneficiary will then be a definite fraction of the balance standing to this account in accordance with the provisions of the trust deed.

Any profit or loss arising on the accumulations investments will be transferred to the beneficiaries' accumulations accounts in proportion to the respective balances standing to the credit of these accounts at the date of revaluation.

The subject of executorship accounts presents many problems to those engaging in the supervision of trust funds. With the short space of time at my disposal, I have only been able to touch upon a few of the points which may be met with in practice. I hope, however, that my remarks have been of interest to you, and that

possibly you may have derived a certain amount of benefit therefrom.

Discussion.

The CHAIRMAN: First of all I would like to congratulate Mr. Johnson. His examples dealing with dividends were particularly interesting, and the facts should have impressed themselves on your minds. I think he has given a very comprehensive *precis* of this interesting question, and I am sure he will be ready to deal with your questions. I would only suggest that, since the subject of executorship accounts is a very wide one, you should confine yourselves as far as possible to the points mentioned by the Lecturer.

A STUDENT: I want to put three questions which are fairly relative to what has been said. I would like to hear a little more from the Lecturer as to how he would apportion expenses between income and capital over the years of a trust. What is the position when further property comes to light after the trustees have been given their discharge? Another point he mentioned was that it is not wise to anticipate income in estate accounts. How would you deal with a case where a large portion of income accrues from something like War Loan, where tax is not deducted? Would you advise the trustees to pay out any income received in that case?

Mr. FREDERICK R. WITTY, Incorporated Accountant: There is one point in Mr. Johnson's interesting lecture that I was rather surprised to hear, and that was that no Estate Duty is payable on the £5,000 due under Mrs. Brown's newspaper insurance policy on the death of Mr. Brown. I was always under the impression that if a sum passes on a death, then Estate Duty is payable on that sum, no matter to whom the benefit accrues. I see Mr. Johnson ignores income tax in his examples for the sake of simplification. There is rather an important point which may be overlooked when apportioning rent. Rents themselves have to be apportioned on a quarterly basis, but the income tax to be deducted therefrom has to be calculated on a yearly basis. I would be interested to know whether that is right.

A STUDENT: Would the Lecturer say why statute-barred debts are included?

Mr. J. R. MESSENGER: With regard to the 500 ordinary shares of the "A1" Tea Company, Mr. Johnson told us that the personal representative sold the bonus rights at 9s. 6d. Are there any circumstances under which the alternative might be adopted? In other words, to take up 50 shares at 30s. per share. What would the book entries be?

Mr. H. T. SPEIRS: In the case of the family protection policy, if the insurance company does not apportion the instalment payments between capital and income, how would the Lecturer apportion it in the accounts?

Mr. IVOR JOHNSON: I was asked a question regarding the expenses of the trust, as to which would be income and which capital. All the usual running expenses of a trust, such as accountant's fees, books, stationery, postages, cheque books and the like, would be income, and any expenses incurred with reference to the capital of the trust would be capital, such as the purchase or sale of investments or legal charges incurred in obtaining advice regarding the capital of the trust. As to the question of further property coming to light afterwards, providing the trustees are available they should distribute that property in accordance with the terms of the will. Of course, if they had died in the meantime, it would be necessary to go to the Court and have a new trustee appointed. With regard to the income to be reserved on any gilt-edged securities, it is the general opinion that even income which is practically certain to be received should not be reserved for, because if you do not reserve income from any investment it is then impossible for the personal representatives to over-distribute the income. Mr. Witty referred to the question of the newspaper insurance policy. The policy is paid for by the wife as she is the subscriber to the paper; therefore full consideration has been given and the proceeds of the policy are accordingly not liable to Estate Duty. I understand that the Inland Revenue Department do not dispute this matter. With regard to income tax, I agree that this must be apportioned on an annual basis, whereas rents will be apportioned quarterly in the manner I have described. As to the question of statute-barred debts, it has been held that the executors of a deceased person should pay statute-barred debts providing there are sufficient assets. Then with reference to the "A1" Tea Company, I think the question was what would happen if, instead of selling the rights, the shares were taken up. That is rather unlikely, because although it frequently happens that a testator permits his executors to hold non-trustee securities of which he died possessed, power is seldom given permitting non-trustee securities to be purchased. If such power were given, then the shares might be taken up and purchased with estate funds. The purchase price would be credited in the cash book and debited to the investment account. As to the question of family protection policies, I was asked what would happen if the insurance company did not render a statement showing how much of the annual instalment represented interest and how much of it represented capital. Well, personally I do not think that question would arise in practice. Insurance companies are very efficient organisations. They would undoubtedly have in their own books records of these figures, and they would be only too pleased to give them to anybody who was entitled to them. If for any reason the figures were not available, the personal representatives would have to make the calculations themselves.

Reviews.

Executors and Administrators. *2nd Edition. By N. E. Mustoe, M.A., LL.B., and W. A. Kieran, A.S.A.A. London: Butterworth & Co. (Publishers), Ltd., Bell Yard, Temple Bar.* (310 *pp. Price* 12*s.* 6*d. net.*)

This is a useful book on the subject of Executorships. Mr. Mustoe is responsible for the legal portion whilst Mr. Kieran has dealt with the accounts. The method adopted has been to state the main principles and cite the leading cases on each point, giving the facts of the case where considered desirable. In the present edition examples prepared by Mr. Kieran have been distributed throughout the text for the purpose of illustrating the rules established by the more important decisions. The matter is well set out and the joint authorship of a lawyer and an accountant has much to recomment it.

Municipal Book-Keeping. *4th Edition. By J. H. McCall, F.S.A.A. London: Sir Isaac Pitman & Sons, Ltd., Parker Street, Kingsway.* (128 *pp. Price* 7*s.* 6*d* net.)

The passing of the Rating and Valuation Act, 1925, and the Local Government Act, 1929, has necessitated a reconstruction of this publication, which has now been brought up to date. The whole field of municipal accounts is reviewed, including trading undertakings, the treatment of capital expenditure and loan debt, the Consolidated Loans Fund, Small Dwelling Acquisition Acts, Stores and Cost Accounts, Rate Estimates, &c., whilst the appendix contains specimens of the balance sheets of a rating fund, a trading undertaking, the Consolidated Loans Fund, a Mortgage Redemption Fund and an Aggregate Balance Sheet; also a summary of estimate for General Rate.

Ranking, Spicer & Pegler's Rights and Duties of Liquidators, Trustees and Receivers. *19th Edition. By H. A. R. J. Wilson, F.C.A., F.S.A.A. London: H. F. L. Publishers, Ltd.,* 19, *Fenchurch Street, E.C.*3. (436 *pp. Price* 15*s. net.*)

This book is now so well known amongst accountants and accountant students that it requires no special notice. The form of the book remains the same as hitherto subject

to certain textual re-arrangements and the incorporation of recent decisions of importance.

Ranking, Spicer & Pegler's Executorship Law and Accounts. *12th Edition. By H. A. R. J. Wilson, F.C.A., F.S.A.A. London: H. F. L. Publishers, Ltd., 19, Fenchurch Street, E.C.3.* (*400 pp. Price 15s. net.*)

The difficult subject of Executorship Law and Accounts is fully and clearly explained in this work, which is now recognised as a standard publication. The endeavour of the author has been to simplify the subject as much as possible. With this end in view the law prior to 1926 relating to property and devolution has been ignored except so far as has been considered essential to the understanding of the present law.

Income Tax and Sur Tax Chart, 1935-36. *By C. H. Tolley. London: Waterlow & Sons, Ltd., London Wall, E.C. Price 3s. 8d. post free. (Or including Irish Free State Supplement, 4s.)*

This chart, which is now well known, contains comprehensive particulars with regard to Income Tax and Sur Tax assessments for the year 1935-36, and is useful in giving references to the sections of the Acts where further information may be obtained.

Administration of Estates with Respect to Assets Abroad. *London: Sweet & Maxwell, Ltd., 2-3, Chancery Lane, W.C.2.* (*156 pp. Price 9s. 6d. net.*)

This publication constitutes volume No. 4 of the Foreign Law Series, and contains particulars as to (1) the administration in England of Estates of Foreigners and persons domiciled outside England. (2) The administration of property in the United States of America of persons who are non-resident. (3) The Succession of the Foreigner in France; and (4) Death Duties in France. Each of these sections is produced by a different author, and each author has special knowledge of the particular section with which he deals. The book will accordingly be found to contain reliable information.

District Societies of Incorporated Accountants.

BENGAL.

ANNUAL MEETING.

The second annual general meeting of the Incorporated Accountants' Bengal and District Society was held on July 12th. The President, Mr. S. N. Mukherjee, in the course of his address, spoke of the urgent problems created by the present economic crisis in India as in other parts of the world. By co-operation through the District Societies they might hope to protect their own interests and those of investors. Students should take a keen interest in their work and study, and attend the excellent series of lectures organised by the District Society, in order to be prepared for the adjustments which might be necessary in future. In view of recent developments in Russia, Japan and India, it was impossible to foretell the economic trends of the next ten years. Incorporated Accountants in England had rendered a great service to the community. In India, too, they had done something to elevate the profession, and he hoped they were destined to do greater things, which would be a source of pride to future Incorporated Accountants.

In conclusion, he must express his sincere appreciation of the work of their active Secretary, Mr. Basu, to whom they all owed a debt of gratitude for his services to the District Society.

The report and accounts for the year 1934-35 were adopted.

The following Officers and Committee were elected: Mr. K. J. Purohit, President; Mr. S. N. Mukherjee, Vice-President; Mr. G. Basu, Honorary Secretary; Mr. S. K. Ghose, Honorary Treasurer; Committee: Mr. M. L. Tarmaster, Mr. M. D. Darbari, Mr. N. Sarcar, Mr. N. F. Master, Mr. N. C. Chakravarty, Mr. S. K. Kar, Mr. B. N. Basu.

BIRMINGHAM.

ANNUAL REPORT.

The Committee have pleasure in presenting the forty-fourth annual report of the Society.

During the year the library was transferred to the Birmingham Law Library. At the same time, a considerable sum of money was expended on the purchase of new works of interest to the profession, so effecting a considerable improvement in the Society's library. Books can be obtained at all reasonable hours, and adequate accommodation is provided for study and quiet reading.

The Committee recommend that this Society set up certain committees to advise members on difficult points of practice. It has been represented to us that members engaged in special problems would welcome the opportunity of taking the opinion of fellow-members, who probably would have had special experience of the points at issue. Additionally, it has been suggested that the formation of such committees would draw Incorporated Accountants together in the common interest of the profession, and so increase the advantages that the Society gives to its members.

The Parent Society approves of the formation of the following committees, as recommended by your Committee:—(1) Fees and General Purposes; (2) Income Tax and Sur-Tax; (3) Bankruptcy, Liquidation, etc.; (4) Company Law and Accounts; (5) Rating and Local Taxation; (6) Executorship and Trusteeship; (7) Costing. Accordingly, it is proposed that informal consultative panels shall be appointed for this purpose, to operate experimentally over a period of twelve months.

The Committee take this opportunity of thanking Sir Thomas Keens for attending the luncheon, and the Lord Mayor of Birmingham and other leading citizens for their kindness in coming to the annual dinner.

During the past year Mr. P. G. Stembridge retired from the position of Hon. Secretary, which he had held for five years, and it is desired to record the appreciation which the Committee feel for the services he has rendered to the Society. We are pleased to welcome Mr. John J. Potter as his successor.

The Committee desire to place on record an expression of thanks to the various lecturers for their services, and to the Birmingham and District Branch of the Chartered Institute of Secretaries, the Institute of Bankers and the Institute of Cost and Works Accountants for their invitations to lectures and for their co-operation. During the year the Committee were successful in obtaining the services of a number of distinguished lecturers, and all the lectures were held at the Society's Library.

The following lectures and functions were held:—

Visit to Birmingham of the Liverpool District Society.

Visit to Bournville Works with the Liverpool District Society, followed by a debate: "That the creation of secret reserves is inevitably detrimental to the investing public, and to the community."

"Formalities in Insolvency," by Mr. W. L. Hand, A.S.A.A.

Luncheon to Alderman Sir Thomas Keens, D.L., J.P., F.S.A.A.

"Local Rates—the basis upon which the money is collected and how it is spent," by Mr. H. C. Wallond, A.S.A.A. By invitation of the Chartered Institute of Secretaries.

"Auditing the Accounts of a Modern Company," by Mr. W. J. Back, A.S.A.A.

Demonstration of Accounting Machines by Burroughs Adding Machines, Ltd.

"Criticism of Balance Sheets," by Mr. A. A. Boddington. By invitation of the Institute of Bankers.

Dinner at Queen's Hotel.

"Posting Eliminated," by Mr. H. A. Simpson, F.C.W.A. By invitation of the Institute of Cost and Works Accountants.

Mock Creditors' Meeting, arranged by the Students.

"Death Duties," by Mr. Stanley A. Spofforth, F.S.A.A.

"Some Points in Income Tax Practice," by Mr. P. Barnes, H.M. Inspector of Taxes.

"Economic Nationalism," by Professor J. H. Jones, M.A., Professor of Economics at Leeds University. The Institute of Bankers were invited to this lecture.

"Income Tax," by Mr. A. Stuart Allen, F.S.A.A.

"Powers and Duties of Directors," by Mr. C. A. Sales, LL.B., F.S.A.A.

"Some Practical Aspects of Costing," by Mr. H. A. R. J. Wilson, F.C.A., F.S.A.A. The Institute of Cost and Works Accountants and the Chartered Institute of Secretaries were invited to this lecture.

NEWCASTLE-UPON-TYNE.

A cricket match was played on August 6th between the Newcastle and the Sunderland members of the Newcastle-upon-Tyne and District Society. Sunderland batted first and scored 96 runs. Newcastle scored 97 for four wickets, thus winning by six wickets.

A very enjoyable afternoon was spent, and it is hoped to make this match an annual event.

SOUTH WALES AND MONMOUTHSHIRE.

ANNUAL MEETING.

At the annual meeting of the South Wales and Monmouthshire District Society held at Cardiff, Mr. Wilson Bartlett, who is the first member of the profession from Wales and Monmouthshire to be honoured with the Presidency of the Parent Society, was presented with a silver salver, subscribed for by members of the District Society. Mr. Tudor Davies, Fellow, of Bridgend and Cardiff, the retiring President of the District Society, in presenting the salver, said that Mr. Bartlett had reached his present high position not through a system of automatic promotion, but by merit and reward for his great services in the past on behalf of Incorporated Accountants. Mr. Davies pointed out that Mr. Bartlett was a founder of the Newport Students' Section, and, after long service on the Committee, was elected President of the District Society for 1926-27. Outside the profession Mr. Bartlett had also achieved distinction. He was a Justice of the Peace, a Past-President of Newport Chamber of Commerce, a Knight of Grace of the Venerable Order of the Hospital of St. John of Jerusalem, and the Financial Adviser and Auditor to the Welsh Rugby Union.

In reply, Mr. Bartlett thanked the Society for the help, assistance and kindness they had always extended to him during the last twenty-six years. He expressed his gratitutde to his old colleague, Colonel R. C. L. Thomas, and his staff, whose sacrificing service had been invaluable.

The retiring President took the opportunity of congratulating Mr. A. V. Vincent of the City Treasurer's Office, Cardiff, on having obtained first place in the Honours list in the Final examination, and Mr. Dudley Childs, of the Borough Treasurer's Office, Newport, on having obtained fifth place Honours in the Final examination, whilst hearty congratulations were also conveyed to Mr. W. W. Stanley, of the firm of Wm. Clark & Stephens, Newport, on having obtained second place Honours in the Intermediate examination.

Mr. Tudor Davies submitted the report and accounts for the year ended March 31st, 1935, and congratulated the Society on a very successful year's work. The Secretaries of the two Student Sections attended the meeting and submitted their own reports of the activities of their respective Sections.

Mr. Tudor Davies then announced that Mr. A. E. Pugh, F.S.A.A., Newport, had been elected President for the ensuing year, and that Mr. Percy A. Hayes, F.S.A.A., Cardiff, had been elected Vice-President, and he invested Mr. Pugh with the presidential badge.

Mr. Pugh, in returning thanks for his election as President, said that accountants, from the nature of their training and the problems which they had to consider daily, should be in a position to make a real contribution to the many difficulties which faced the world to-day. Many of their problems which were formerly political ones had of recent years been transferred to the economic sphere, and it was the duty of accountants to form opinions based in a measure on a solid foundation. He deplored the tendency of amalgamations and combines to supersede the small trader, which inevitably led to a decrease in the number of clients. Formerly, the essential feature between a professional man and his client was the intimate relationship which existed. To-day they worshipped at the shrine of bigness. He felt that some day there would be a return to a unit of a size which a man was capable of managing, and he expressed a belief that there was still a place in the commercial community for the private trader and for the professional man whose practice was such that he knew his clients and their affairs personally.

Mr. Percy H. Walker, F.S.A.A., Cardiff, was re-elected as Honorary Secretary and Treasurer for the fourteenth year in succession, and the following were appointed to serve on the Committee for the ensuing year :—Mr. F. J. Alban, C.B.E., Fellow, Cardiff; Mr. John Allcock, O.B.E., Fellow, Cardiff; Mr. Tudor Davies, Fellow, Cardiff and Bridgend; Mr. J. Pearson-Griffiths, Fellow, Cardiff; Mr. A. B. Watts, Fellow, Cardiff, Mr. J. Wallace Williams, Fellow, Cardiff.

It was reported that the Committee had co-opted the following as members of the Committee during the past session: Mr. P. H. Stafford, Fellow, County Accountant, Monmouthshire County Council; Mr. Ivor Davies, Associate, Cardiff; also that the following who had been nominated by their respective Student Sections, were co-opted on the Committee as Student representatives: Mr. R. R. Davies, Associate, Cardiff; Mr. F. M. Forster, Associate, Newport.

Mr. Alfred Shankland, Fellow, Cardiff, and Mr. J. D. R. Jones, Fellow, Newport, were re-elected as Hon. Auditors.

The meeting concluded with a very hearty vote of thanks to the President for his services during the past year, to the Hon. Secretary, and to the Hon. Secretaries of the Cardiff and Newport Student Sections, whilst thanks were also conveyed to the Auditors, Librarians and Lecturers.

Incorporated Accountants' Golfing Society.

AUTUMN MEETING.

The Autumn Meeting of the Society will be held on the Walton Heath Golf course, on Thursday, September 19th, 1935, at 10 a.m. A Medal Competition will take place in the morning, and the winner will receive a prize presented by the Society. A second prize will also be given by the Society. The competition will consist of stroke play over 18 holes. There will be an optional sweep of 2s. 6d., and score cards must be returned by

2.30 p.m. If there is a sufficient number, a four-ball bogey competition will be arranged for the afternoon.

A prize is also offered for the member making the best aggregate score for the Spring, Summer and Autumn Meetings.

Guests of members will be welcomed at this meeting, and the Honorary Secretaries should be notified of their names and handicap not later than September 14th.

Scottish Notes.

[FROM OUR CORRESPONDENT.]

Death of Sir James Martin.

The news of the lamented death of Sir James Martin was received in Scotland with very sincere regret. By the still surviving members of the Scottish Institute who met Sir James Martin in the Spring of 1899, when, along with the late Mr. Andrew W. Barr, then President of the Society, he attended meetings in Glasgow which resulted in the Scottish Institute of Accountants becoming the Scottish Branch of the Society, his tact, patience and courtesy in dealing with the problem of amalgamation in the special circumstances of Scottish accountancy are still remembered. By many of the younger Scottish members, who were encouraged to make his acquaintance when in London, his genial and kindly interest in their professional progress was much appreciated. To the writer of these notes, who has enjoyed the friendship and wise counsel of Sir James Martin for thirty-eight years, his passing is a definite personal loss.

The Late Mr. William Wilson, Jr., F.S.A.A.

We regret to announce the death of another old member of the Scottish Branch. Mr. William Wilson, Jr., Incorporated Accountant, Greenock, died on 3rd ult. after an illness extending over a few months. Mr. Wilson, who was admitted a member of the Society in 1908, originally studied for the legal profession. About 40 years ago he commenced business as an accountant in Greenock, and soon built up a large practice. Coming of a farming stock Mr. Wilson was a keen agriculturist. He was connected with other businesses dealing in grain, wool, &c., and was well known to farmers in the West of Scotland and West Highlands. Mr. Wilson, who had reached his seventy-first year, was a man of strong opinions and forceful personality, combined with a kindly nature and a good sense of humour.

Preference Share Rights.

A petition to set aside confirmation of a resolution for reduction of capital by the Summerlee Iron Company Ltd., was refused by Lord Carmont in the Court of Session recently. The issued capital was now £311,250 represented by 30,000 4 per cent. Preference Shares of £10 each, fully paid, and 90,000 Ordinary shares of 2s. 6d. each, fully paid. The company, having liquid assets of £285,000, which in the opinion of the directors was an amount largely in excess of its present requirements, proposed to reduce the capital by repaying to the holders of the preference shares the sum of £5 per share, representing a sum of £150,000. An extraordinary general meeting of the company was held, and a special resolution passed to carry out the intended purpose. There was no opposition to the petition.

A difficulty, however, arose with regard to the rights of the preference shareholders. It appeared that in 1920 in consideration of a premium of 10s. per share should the company exercise its right to pay off the preference shareholders, the preference shareholders had surrendered their voting rights. They were accordingly not summoned to the meetings as they should have been, as their rights were being affected. For these reasons his Lordship found that the resolution sought to be confirmed was *ultra vires*. He refused to confirm it, and dismissed the petition.

Slander in Wills.

We have frequently referred in this column to differences between Scots and English Law with, it must be admitted, some bias in favour of the former. A recent instance of this difference was disclosed in a case which came before the Second Division of the Court of Session on June 21st.

The petition was presented at the instance of the executor of a woman who had made bequests to public institutions and bequeathed a farthing each to certain relatives with reference to whom she made certain comments in her will. The persons named in the passages referred to intimated to the petitioner that in the event of his registering the will in the Books of Council and Session, which is a public register and open to inspection by members of the public, they would hold him as executor liable in damages for the publication of a slander. The petitioner, therefore, asked the Court to appoint the Keeper of the Register of Deeds to record only such parts of the will as were relevant and of testamentary effect or alternatively to exclude from any extract of the will all objectionable and irrelevant passages.

The Lord Justice Clerk in moving that the prayer of the petition be refused said that the alternative suggestion by the petitioner, that the Court should direct the Keeper to exclude from any extract of the will the offensive passages implied they should be giving a direction contrary to express statutory enactment, and they had no power to do so. But, his Lordship added, the executor was not bound to register the will.

When a writ was tendered to the Keeper of the Books of Council and Session for registration the whole writ ought to be recorded. If only a part were recorded that would be tampering with the writ and this was a course to be avoided.

"If," his Lordship continued, "people who were minded to use their wills to slander other people whom they disliked and who imagined that they could do this with impunity, realised that their estates might be depleted by claims for damages arising out of the slander and their testamentary intentions thereby defeated, it might exercise a salutary restraint upon this most objectionable form of malice."

As an instance of a somewhat different view, in a case which about the same time came before Mr. Justice Bucknill in the Probate Court, London, the executors of the late Sir Robert John Collie, the well known physician, applied for leave to expunge from the probate certain words contained in the will which it was said were defamatory. Counsel for the executors said the will had already been proved "in common form." The executors had believed that the "irrelevant and defamatory" words would be left out of the probate, but without an order of the Court there was no power to do so. The executors now wanted to protect themselves by expunging the words complained of. Mr. Justice Bucknill granted leave to exclude the words.

It will be seen that, while in the English case the Court granted leave to exclude the objectionable words, the Scottish Court refused to grant such an order, at the same time stating that the Executor was not bound to register the will.

Incorporated Accountants' Estates.

The estate of Mr. William Harris Jack, Incorporated Accountant, 51, Wood End Drive, Glasgow, who died on May 9th last, has been proved at £80,695. Mr. Jack was senior partner of W. H. Jack & Co., Incorporated Accountants, Glasgow and London.

The estate of Mr. James Wilson, Incorporated Accountant, who died on June 23rd last has been proved at £28,535. Mr. Wilson was senior partner of the firm of William Hart, Jnr. & Wilson, Incorporated Accountants, Glasgow.

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The Society of Incorporated Accountants & Auditors.

A.D. 1885.

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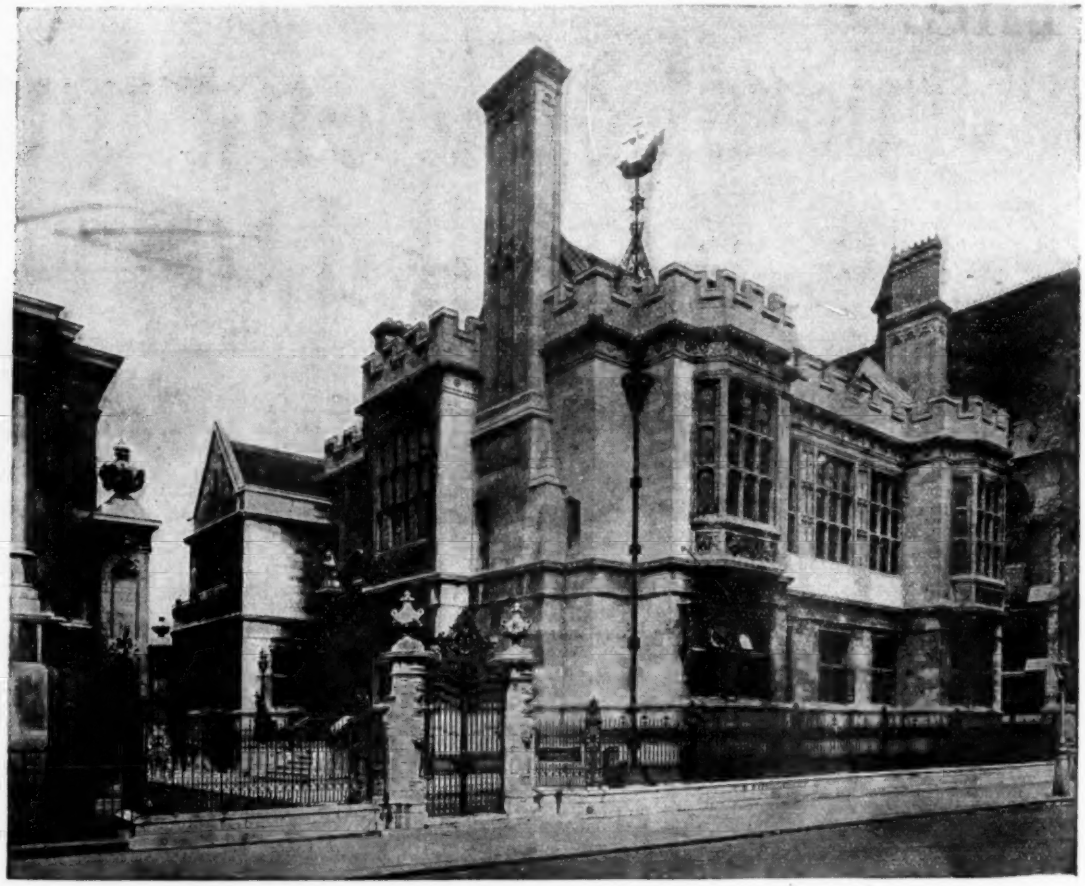

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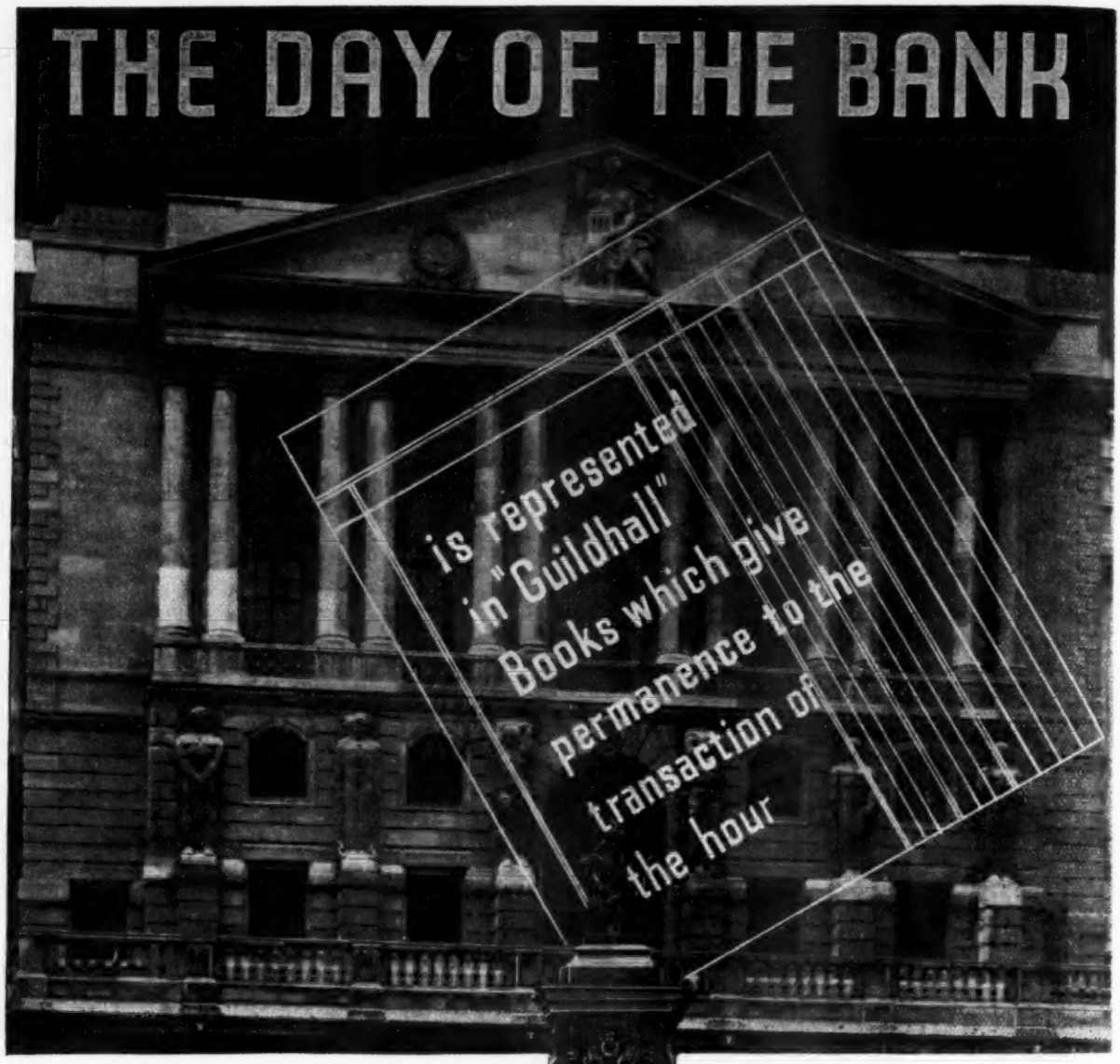

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